

MONTANA LEGISLATIVE HISTORY

Chapter 500 19 73

Bill H _____ S 208 Original bill & history ✓ c

① Local Government - no minutes

① Local Government - re-
ferred on 1-30 to:

H. Committee on ② Natural Resources

S. Committee on ② Judiciary

Hearing Date(s) 2-27 _____ C

Hearing Date(s) 2-5 _____ C

subcommittee 3-1 _____ C
report on 3-3 3-3 _____ C

subcommittee - 2-6 _____ C
no minutes

_____ C

2-7 _____ C

Date Out 3-3 _____ C

Date Out 2-7

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

Joint Committee 3-19 - no
minutes

1 public requirements; to encourage development in harmony
2 with the natural environment; and to require uniform
3 monumentation of land subdivisions and transferring
4 interests in real property by reference to plat or
5 certificate of survey.

6 Section 3. As used in this act, unless the context or
7 subject matter clearly requires otherwise, the following
8 words or phrases shall have the following meanings:

9 (1) "Certificate of survey" means a drawing of a
10 field survey prepared by a registered surveyor for the
11 purpose of disclosing facts pertaining to boundary
12 locations.

13 (2) "Dedication" means the deliberate appropriation
14 of land by an owner for any general and public use,
15 reserving to himself no rights which are incompatible with
16 the full exercise and enjoyment of the public use to which
17 the property has been devoted.

18 (3) "Examining land surveyor" means a county surveyor
19 or a registered land surveyor duly appointed to review
20 surveys and plats submitted for filing.

21 (4) "Governing body" means a board of county
22 commissioners or the governing authority of any city or town
23 organized pursuant to law.

24 (5) "Planned unit development" means a land
25 development project consisting of residential clusters,

1 industrial parks, shopping centers, or office building
2 parks, or any combination thereof which comprises a planned
3 mixture of land uses built in a prearranged relationship to
4 each other and having open space and community facilities in
5 common ownership.

6 (6) "Plat" means a graphical representation of a
7 subdivision showing the division of a tract or parcel of
8 land into lots, blocks, streets, and alleys, and other
9 divisions and dedications.

10 (7) "Preliminary plat" means a neat and scaled
11 drawing of a proposed subdivision showing the layout of
12 streets, alleys, lots, blocks, and other elements of a
13 subdivision which furnish a basis for review by a governing
14 body; and the same shall be accompanied by any covenants
15 that run with the platted land.

16 (8) "Final plat" means the final drawing of the
17 subdivision and dedication prepared for filing for record
18 with the county clerk and recorder and containing all
19 elements and requirements set forth in this act and in
20 regulations adopted pursuant thereto.

21 (9) "Registered land surveyor" means a person
22 licensed to practice surveying in the state of Montana.

23 (10) "Subdivider" means any person who causes land to
24 be subdivided or who proposes a subdivision of land.

25 (11) "Subdivision" means the division of land, or land

1 so divided, into two (2) or more parcels any of which is
2 less than forty (40) acres in size and cannot be described
3 as a quarter quarter section or a United States government
4 lot, in order that the title or possession of the parcels or
5 any interest therein may be sold, rented, leased, or
6 otherwise conveyed either immediately or in the future
7 whether the division is made by reference to a map or survey
8 or by a metes-and-bounds description of the parcels, and
9 shall include any resubdivision of land; provided further
10 that a division of land is a subdivision when the division
11 creates a second or any subsequent parcel for the purpose of
12 sale, rent, lease, or other conveyance from a tract of land
13 held in single or undivided ownership on July 1, 1973, where
14 any of the parcels segregated from the original tract is
15 less than forty (40) acres in size; and cannot be described
16 as a quarter quarter section or as a United States
17 government lot; the plat of a subdivision so created shall
18 show all of the parcels segregated from the original tract.

19 Section 4. (1) Except as provided herein, all
20 divisions of real property made after June 30, 1973, into
21 lots, tracts, or parcels any of which is less than forty
22 (40) acres in size and cannot be described as a quarter
23 quarter section or a United States government lot, or into
24 tracts of land the boundaries or area of which cannot be
25 determined without a survey or trigonometric calculation,

1 must be surveyed by or under the supervision of a registered
2 surveyor; and a certificate of survey thereof must be
3 completed by the surveyor and filed by him in the office of
4 the county clerk and recorder of the county in which the
5 real property lies.

6 (2) Every subdivision of land after June 30, 1973,
7 shall be surveyed and platted in conformance with this act
8 by or under the supervision of a registered land surveyor.
9 Subdivision plats shall be prepared and filed in accordance
10 with this act and regulations adopted pursuant thereto.
11 Each subdivision plat must be accompanied by as complete a
12 survey of the section or sections in which the subdivision
13 is located as may be necessary to properly orient the
14 subdivision within such section or sections. All division
15 of sections into aliquot parts and retracement of lines must
16 conform to United States bureau of land management
17 instructions, and all public land survey corners shall be
18 filed in accordance with the Corner Recordation Act of
19 Montana (sections 67-2001 through 67-2019).

20 (3) Instruments of transfer of land which is acquired
21 for state highways may refer by parcel and project number to
22 state highway plans which have been recorded in compliance
23 with section 32-2413, and are exempted from the surveying
24 and platting requirements of this act; provided, however,
25 that if such parcels are not shown on highway plans of

1 record, instruments of transfer of such parcels shall be
2 accompanied by and refer to appropriate certificates of
3 survey and plats when presented for recording.

4 (4) Unless the method of disposition is adopted for
5 the purpose of evading this act, the requirements of this
6 act shall not apply to any division of land:

7 (a) which is created by order of any court of record
8 in this state or by operation of law;

9 (b) which is created by a lien, mortgage, or trust
10 indenture;

11 (c) which creates an interest in oil, gas, minerals,
12 or water which is now or hereafter severed from the surface
13 ownership of real property;

14 (d) which creates cemetery lots.

15 (5) The department of intergovernmental relations
16 shall, in conformance with the Montana Administrative
17 Procedure Act (sections 82-4201 through 82-4225), prescribe
18 uniform standards for monumentation and for the form,
19 accuracy, and descriptive content of records of survey.

20 (6) It shall be the responsibility of the governing
21 body to require the replacement of all monuments removed in
22 the course of construction.

23 Section 5. (1) The governing body of every county,
24 city, and town shall, before July 1, 1974, adopt and provide
25 for the enforcement and administration of subdivision

1 regulations reasonably providing for the orderly development
2 of their jurisdictional areas; for the coordination of roads
3 within subdivided land with other roads, both existing and
4 planned; for the dedication of land for roadways; for the
5 improvement of roads; for the provision of adequate open
6 spaces for travel, light, air and recreation; for the
7 provision of adequate transportation, water, drainage, and
8 sanitary facilities; for the avoidance of congestion; and
9 for the avoidance of subdivision which would involve
10 inordinate environmental degradation or danger or injury to
11 health, safety, or welfare by reason of natural hazard or
12 the lack of water, drainage, transportation or other public
13 services or would necessitate an excessive expenditure of
14 public funds for the supply of such services.

15 (2) The department of intergovernmental relations
16 shall, in conformance with the Montana Administrative
17 Procedure Act (sections 82-4201 through 82-4225), prescribe
18 minimum administrative and review procedures to be contained
19 in, and those subject areas which must be addressed by,
20 subdivision regulations adopted pursuant to this act. The
21 department shall provide for the review of preliminary plats
22 by those agencies of state and local government having a
23 substantial interest in proposed subdivision; provided,
24 however, that such agency review shall not delay the
25 governing body's action on the plat beyond the time limit

1 specified herein, and the failure of any agency to complete
2 a review of a plat shall not be a basis for rejection of the
3 plat by the governing body.

4 (3) Local subdivision regulations shall include
5 procedures for the summary review and approval of
6 subdivision plats containing five (5) or fewer parcels all
7 of which front on an existing public road where no land in
8 the subdivision will be dedicated to public use and which
9 have been approved by the department of health and
10 environmental sciences where such approval is required by
11 sections 69-5001 through 69-5005; provided that reasonable
12 local regulations may contain additional requirements for
13 summary approval.

14 (4) Local regulations may provide that in lieu of the
15 completion of the construction of any public improvements
16 prior to the approval of a final plat, the governing body
17 may accept a bond or other reasonable security, in an amount
18 and with surety and conditions satisfactory to it, providing
19 for and securing the construction and installation of such
20 improvements within a period specified by the governing body
21 and expressed in the bonds or other security.

22 Section 6. (1) A subdivision plat in which any lot
23 is five (5) acres or less in size shall show that one-ninth
24 (1/9) of the platted area, exclusive of all other
25 dedications, is forever dedicated to the public for parks

1 and playgrounds.

2 A subdivision plat in which all lots shown are greater
3 than five (5) acres in size shall show that one-twelfth
4 (1/12) of the platted area, exclusive of all other
5 dedications, is forever dedicated to the public for parks
6 and playgrounds. There shall be no requirement for
7 dedication of parks and playgrounds when the subdivision
8 plat show that all lots are greater than ten (10) acres in
9 size. The governing body, in consultation with the planning
10 board having jurisdiction, may determine suitable locations
11 for such parks and playgrounds.

12 (2) Where, because of size, topography, shape,
13 location, or other circumstances, the dedication of land for
14 parks and playgrounds is undesirable, the governing body
15 may, for good cause shown, make an order to be endorsed and
16 certified on the plat accepting a cash donation in lieu of
17 the dedication of land and equal to the fair market value of
18 the amount of land that would have been dedicated. For the
19 purpose of this section, the fair market value is the value
20 of the unsubdivided, unimproved land. Such cash donation
21 shall be paid into the park fund to be used for the purchase
22 of additional lands or for the initial development of parks
23 and playgrounds.

24 (3) If the proposed plat provides for a planned unit
25 development with land permanently set aside for park and

1 recreational uses sufficient to meet the needs of the
2 persons who will ultimately reside therein, the governing
3 body may issue an order waiving land dedication and cash
4 donation requirements.

5 (4) If a tract of land is being developed under
6 single ownership as a part of an overall plan, and part of
7 the tract has been subdivided and sufficient park lands have
8 been dedicated to the public from the area that has been
9 subdivided to meet the requirements of this section for the
10 entire tract being developed, the governing body shall issue
11 an order waiving the land dedication and cash donation
12 requirements for the subsequently platted area.

13 Section 7. Where a subdivision platted under this act
14 contains land to be dedicated to public use, the subdivider
15 shall submit with the preliminary plat either:

16 (1) a certificate of a licensed title abstractor
17 showing the names of the owners of record of the land to be
18 dedicated and the names of lien holders or claimants of
19 record against the land and the written consent to the
20 dedication by the owners of the land, if other than the
21 subdivider, and any lien holders or claimants of record
22 against the land; or

23 (2) title insurance guaranteeing the public's
24 interest in the dedicated land in a reasonable amount to be
25 determined by the governing body.

1 Section 8. (1) Except where a plat is eligible for
2 summary approval the subdivider shall present to the
3 governing body, or the agent or agency designated thereby,
4 the preliminary plat of the proposed subdivision for local
5 review. When the proposed subdivision lies within the
6 boundaries of an incorporated city or town, the preliminary
7 plat shall be submitted to and approved by the city or town
8 governing body. When the proposed subdivision is situated
9 entirely in an unincorporated area the preliminary plat
10 shall be submitted to and approved by the governing body of
11 the county; however, if the proposed subdivision lies within
12 one (1) mile of a third class city or town or within two (2)
13 miles of a second class city or within three (3) miles of a
14 first class city the county governing body shall submit the
15 preliminary plat to the city or town governing body for
16 review and comment. If the proposed subdivision lies partly
17 within an incorporated city or town, the proposed plat
18 thereof must be submitted to and approved by both the city
19 or town and the county governing bodies. This section does
20 not limit the authority of certain municipalities to
21 regulate subdivisions beyond their corporate limits pursuant
22 to section 11-3305.

23 (2) The governing body shall approve, conditionally
24 approve, or reject the preliminary plat within forty-five
25 (45) days of its presentation. The preliminary plat shall

1 show all pertinent features of the proposed subdivision and
2 all proposed improvements. The governing body or its
3 designated agent or agency shall review the preliminary plat
4 to determine whether it conforms to the local master plan if
5 one has been adopted pursuant to sections 11-3801 through
6 11-3856 to the provisions of this act, and to rules and
7 regulations prescribed or adopted pursuant to this act.

8 (3) The governing body or its authorized agent or
9 agency shall hold a public hearing on the preliminary plat
10 and shall consider all relevant evidence to determine
11 whether the plat should be approved, conditionally approved,
12 or disapproved by the governing body. When a hearing is
13 held by an agent or agency designated by the governing body,
14 the agent or agency shall act in an advisory capacity and
15 recommend to the governing body the approval, conditional
16 approval, or disapproval of the plat. This recommendation
17 must be submitted to the governing body in writing not later
18 than ten (10) days after the public hearing. If the
19 governing body rejects or conditionally approves the
20 preliminary plat, it shall forward one (1) copy of the plat
21 to the subdivider accompanied by a letter over the
22 appropriate signature stating the reason for rejection or
23 enumerating the conditions which must be met to assure
24 approval of the final plat.

25 (4) Upon approving or conditionally approving a

1 preliminary plat, the governing body shall affix a dated and
2 signed statement of approval to the preliminary plat. The
3 governing body shall forward one (1) copy of the approval
4 statement to the subdivider. This approval shall be in
5 force for not more than one (1) calendar year; at the end of
6 this period the governing body may, at the request of the
7 subdivider, extend its approval for no more than one (1)
8 calendar year.

9 Section 9. (1) All final subdivision plats shall be
10 reviewed for errors and omissions in calculation or drafting
11 by an examining land surveyor. He shall ascertain that all
12 features, such as streets, drainage, and all other
13 improvements and facilities to be operated or maintained
14 with public funds, are essentially the same as those shown
15 on the approved preliminary plat; that the permanent control
16 monuments meet requirements prescribed pursuant to this act;
17 that all exterior boundaries and corners of the tract are
18 shown in sufficient detail so as to leave no doubt as to how
19 they were established; and that all monuments and references
20 marking exterior corners conform to standards of size and
21 position promulgated pursuant to this act. When the survey
22 data shown on the plat meet the conditions set forth by or
23 pursuant to this act, the examining land surveyor shall so
24 certify in a printed or stamped certificate on the plat;
25 such certificate shall be signed by him.

1 No land surveyor shall act as an examining land
2 surveyor in regard to a plat in which he has a financial or
3 personal interest.

4 (2) The governing body shall examine every final
5 subdivision plat and shall approve it for record when it
6 conforms to the conditions of approval set forth on the
7 preliminary plat. The clerk and recorder of the county
8 shall refuse to accept any plat for record that fails to
9 have such approval in proper form.

10 (3) Every final subdivision plat must be filed for
11 record with the county clerk and recorder before any
12 interest in the subdivided land can be sold, rented, leased,
13 or transferred in any manner or offered for sale, lease, or
14 transfer. If illegal transfers or offers of any manner are
15 made, the county attorney shall commence action to enjoin
16 further sales, transfers, or offers of sale or transfer and
17 compel compliance with all provisions of this act. The cost
18 of such action shall be imposed against the person
19 transferring or offering to transfer the property.

20 Section 10. The governing body may establish
21 reasonable fees to be paid by the subdivider to defray the
22 expense of reviewing subdivision plats.

23 Section 11. All covenants shall be considered to run
24 with the land, whether marked or noted on the subdivision
25 plat or contained in a separate instrument recorded with the

1 plat.

2 Section 12. Any plat prepared and recorded as herein
3 provided may be vacated either in whole or in part as
4 provided by sections 11-2801 and 11-2803, and upon such
5 vacation the title to the streets and alleys of such vacated
6 portions to the center thereof shall revert to the owners of
7 the properties within the platted area adjacent to such
8 vacated portions; provided however, that when any pole line,
9 pipe line, or any other public or private facility that is
10 located in a vacated street or alley at the time of the
11 reversion of the title thereto, the owner of said public or
12 private utility facility shall have an easement over the
13 vacated land to continue the operation and maintenance of
14 the public utility facility.

15 Section 13. Every donation or grant to the public, or
16 to any person, society, or corporation, marked or noted on a
17 plat is to be considered a grant to the donee.

18 Section 14. (1) Within one hundred eighty (180) days
19 of the completion of a survey the registered land surveyor
20 responsible for the survey, whether he is privately or
21 publicly employed, shall prepare and file for record a
22 certificate of survey in the county in which the survey was
23 made if the survey:

24 (a) provides material evidence not appearing on any
25 map filed with the county clerk and recorder or contained in

1 the records of the United States bureau of land management;

2 (b) reveals a material discrepancy in such map;

3 (c) discloses evidence to suggest alternate locations
4 of lines or points;

5 (d) establishes one or more lines not shown on a
6 recorded map the positions of which are not ascertainable
7 from an inspection of such map without trigonometric
8 calculations.

9 (2) A certificate of survey will not be required for
10 any survey which is made by the United States bureau of land
11 management or which is preliminary or which will become part
12 of a subdivision plat being prepared for recording under the
13 provisions of this act.

14 (3) Certificates of survey shall be legibly drawn,
15 printed, or reproduced by a process guaranteeing a permanent
16 record and shall conform to monumentation and surveying
17 requirements promulgated under this act.

18 Section 15. The county clerk and recorder shall
19 maintain an index of all recorded subdivision plats and
20 certificates of survey. This index shall list plats and
21 certificates of survey by the quarter section, section,
22 township, and range in which the platted or surveyed land
23 lies and shall list the recording or filing numbers of all
24 plats depicting lands lying within each quarter section.
25 Each quarter section list shall be definitive to the

1 exclusion of all other quarter sections. The index shall
2 also list the names of all subdivision plats in alphabetical
3 order and the place where filed.

4 Section 16. When a recorded plat does not definitely
5 show the location or size of lots or blocks, or the location
6 or width of any street or alley, the governing body may
7 require a new and correct survey and plat to be made and
8 recorded in the office of the county clerk. The corrected
9 plat must, to the extent possible, follow the plan of the
10 original survey and plat. The surveyor making the resurvey
11 shall endorse the corrected plat referring to the original
12 plat and noting the defect existing therein and the
13 corrections made.

14 Section 17. Every registered land surveyor may
15 administer and certify oaths:

16 (1) when it becomes necessary to take testimony for
17 the identification of old corners or reestablishment of lost
18 or obliterated corners;

19 (2) when a corner or monument is found in a
20 deteriorating condition and it is desirable that evidence
21 concerning it be perpetuated;

22 (3) when the importance of the survey makes it
23 desirable to administer an oath to his assistants for the
24 faithful performance of their duty.

25 A record of oaths shall be preserved as part of the

1 field notes of the survey, and noted on the certificate of
2 survey filed under this section.

3 Section 18. Any person who violates any provision of
4 this act or any local regulations adopted pursuant thereto
5 shall be guilty of a misdemeanor and punishable by a fine of
6 not less than one hundred dollars (\$100) or more than five
7 hundred dollars (\$500) or by imprisonment in a county jail
8 for not more than three (3) months, or by both fine and
9 imprisonment. Each sale, lease or transfer, or offer for
10 sale, lease, or transfer of each separate parcel of land in
11 violation of any provision of this act or any local
12 regulation adopted pursuant thereto shall be deemed a
13 separate and distinct offense.

14 Section 19. If any provision of this act or its
15 application to any person or circumstances is held invalid,
16 the remainder of the act or the application of the provision
17 to other persons or circumstances is not affected.

18 Section 20. Sections 11-601 through 11-616, 11-3843
19 through 11-3848, and 11-3851, R. C. M. 1947, are repealed.

-End-

LOCAL GOVERNMENT COMMITTEE 1973

STATUS OF BILLS

BILL NO.	SPONSOR	TITLE	COMMITTEE ACTION	FINAL STATUS
SENATE BILLS				
63	GROFF	AUTOMATIC DISINCORPORATION OF MONTANA CITIES AND TOWNS	AMENDED, AND PASSED	GOVERNOR'S OFFICE
92	THIESSEN	RAISE SALARIES OF ^{city} COUNTY COMMISSIONERS	AMENDED, AND PASSED	GOVERNOR'S OFFICE
98	MCDONALD	PERMIT BOARD OF CO. COMMISSIONERS TO USE EXCESS AMOUNTS FROM INTEREST FUNDS	AMENDED, AND PASSED	GOVERNOR'S OFFICE
139	MC CALLUM	INCREASING PAYMENT TO COUNTY SURVEYORS	AMENDED, AND PASSED	
146	DEVINE	ABOLITION OF RESIDENCY REQUIREMENT FOR POLICEMEN	PASSED	SIGNED BY GOVERNOR
151	MC CALLUM	INCREASES PAYMENTS TO COUNTY COMMISSIONERS		
155	DRAKE	FINANCING OF OFFSTREET PARKING IMPROVEMENT DISTRICTS	AMENDED, AND PASSED	SIGNED BY GOVERNOR
157	DRAKE	INCORPORATION OF CITIES AND TOWNS	AMENDED, AND PASSED	SIGNED BY GOVERNOR
159	MC KEON	TIME AND ONE HALF PAY FOR OVERTIME FOR POLICEMEN	KILLED	
160	MC OMBER	RAISE THE LIMIT ON CONTRACTS FOR DISTRICT BUSINESS	PASSED	GOVERNOR'S OFFICE
163	MC GOWAN	INCLUDE CITY AND COUNTY EMPLOYEES IN HOURS CHANGE	KILLED	KILLED IN COMMITTEE 2/10
182	MOORE	REQUIRING PUBLICATION OF ONLY COMMENTS OF STATE EXAMINERS REPORT	AMENDED, AND PASSED	CONFERENCE COMMITTEE
183	BENNETT	REQUIRE CITIES & TOWNS TO SEEK OUT BEST TERMS FOR DEPOSITING MONEY	AMENDED, AND PASSED	
184	NEES	ALLOWING ADDITIONAL BRIDGE LEVY	PASSED	SIGNED BY GOVERNOR
191	HALL	INSTALLATIONS UNDER SPECIAL IMPROVEMENT LIGHTING DISTRICTS	HELD OVER UNTIL 1974	RETAINED FOR 1974 SESSION
204	HAZELBAKER	SUPERVISORS IN WATER CONSERVATION DISTRICTS	AMENDED, AND PASSED	SIGNED BY GOVERNOR

STATUS OF SENATE BILLS, CONTINUED:

206	NORTHEY	CONTRACT WITH PRIVATE PARTIES FOR SNOW REMOVAL	KILLED	KILLED IN COMMITTEE
208	TURNAGE	LOCAL GOVERNMENT BODIES TO ADOPT SUBDIVISION REGULATIONS	REFERRED TO JUDICIARY	
214	BOYLAN	ISSUANCE OF BONDS BY AIRPORT AUTHORITIES	AMENDED, AND PASSED	
217	HARRISON	PRIVATE CEMETARY TO ESTABLISH ENDOWED TRUST FUND	KILLED	KILLED IN COMMITTEE
221	MCNAMER	COUNTY TREASURER MAY TAKE MEMBERSHIP IN CERTAIN ORGANIZATIONS	PASSED AS AMENDED	GOVERNOR'S OFFICE
228	LOWE	DIVISION OF PUBLIC WORKS & CONSTRUCTION PROJECTS	PASSED	KILLED IN SENATE
229	LOWE	DIVISION OF PUBLIC WORKS & CONSTRUCTION PROJECTS	PASSED	KILLED IN SENATE
247	THIESSEN	ADDITIONAL INFORMATION ON NOTICES OF UNDERGROUND FACILITIES	KILLED	KILLED IN COMMITTEE
255	THIESSEN	AMEND HOUSING AUTHORITIES LAW	KILLED	KILLED IN COMMITTEE
270	BREEDEN	CLARIFYING DISTANCE REQUIREMENTS	PASSED	GOVERNOR'S OFFICE
276	GOODHEART	DEFINING PERSONS WHO ARE QUALIFIED TO PETITION	PASSED	
280	THIESSEN	ESTABLISHMENT OF MUNICIPAL ELECTRIC UTILITIES	HELD OVER UNTIL 1974	INDEFINITELY POSTPONED
285	HAZELBAKER	MINIMUM QUALIFYING STANDARDS FOR POLICE OFFICERS	AMENDED, AND PASSED	SIGNED BY GOVERNOR
286	HAZELBAKER	MINIMUM QUALIFYING STANDARDS FOR PEACE OFFICERS	AMENDED, AND PASSED	SIGNED BY GOVERNOR
287	HAZELBAKER	MINIMUM QUALIFYING STANDARDS FOR SHERIFF, MARSHAL, & POLICE	PASSED	SIGNED BY GOVERNOR
297	BOYLAN	HEALTH DEPARTMENT ADMINISTER FUNDS AND GRANTS	PASSED	GOVERNOR'S OFFICE
307	MCDONALD	OPTIONAL FORMS OF COUNTY GOVERNMENT	AMENDED, AND PASSED	GOVERNOR'S OFFICE
315	LYNCH	FIXED SALARIES OF CERTAIN COUNTY OFFICIALS	KILLED	KILLED IN COMMITTEE
320	GROFF	ALLOW COUNTY TREASURER TO REFER COLLECTIONS TO AGENCY	PASSED	INDEFINITELY POSTPONED
328	DEWOLFE	LETTING CONTRACTS IN CITIES, EXCESS OF \$4,000	KILLED	KILLED IN COMMITTEE

SENATE COMMITTEE

ON

LOCAL GOVERNMENT

MINUTES

SIXTH

MEETING

JAN. 30, 1973

The sixth meeting of the Local Government Committee was called to order by Chairman Cornie Thiessen at 11:00 a.m.

Roll Call was taken. Quorum present.

ROLL CALL

SENATE BILL 208 - Senator Jean Turnage spoke in behalf of this bill saying its purpose was to bring order out of the confusion with land subdivisions and the roll of local government therein.

SB 208

Mr. Hal Price was introduced by Mr. Turnage as a member of the State Planning staff. He, in turn, explained the bill.

TESTIMONY

Senator Turnage provided the Committee with a list of bills relative to this bill and said that the Judiciary Committee would be requesting this bill be transferred to them since it was a legal bill. Senator Thiessen suggested since there were no opponents we table the hearing on this bill and there be no further action taken.

SENATE BILL 214 - Senator Boylan explained this bill and introduced Mr. Don Garrity, Dain, Kalman & Quail, who explained the changes needed in the bill, saying it would allow revenue bonds to be drafted to support local airports.

SB 214

Testimony was given by Frank Wolcott from Gallatin Field; Bill Merrick, Gallatin Airport Authority; Bill Hunt, Montana Aero Division; Tom Mahan, Helena Joint City-County Planning Board; all in support of this measure.

TESTIMONY

Senator Harrison suggested that because of the nature of the bill, it would be reasonable to amend it with some limitation on the levy.

At this point, Senator Thiessen had to leave the meeting to make another appointment and Vice-Chairman, Senator Goodheart took over.

SENATE BILL 338 - Senator McNamber testified in support of this measure and introduced Russ Hart of Billings to speak in behalf of it. The bill would give cities more flexibility in the building of city parking lots. Mr. Hart, of the Billings Parking Commission, discussed the importance of parking and explained the bill.

SB 338

SENATE COMMITTEE ON

Local Government

NAME	DATE	4	16	23	29	30	1	3	6	8	9	10	10	10	13	20	27	23	24	26
Cornie Thiesen, Chairman	Jan	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
B. J. (Swede) Goodheart		/	/	/	/	/	/	/	/	/	/	/	ab	ab	ab	/	/	/	/	/
Bill Bertche		/	/	ab	/	/	ab	/	/	/	/	/	/	ab	/	/	/	/	/	/
Mrs. Boots Hall		/	/	/	/	/	/	/	/	/	/	/	ab	/	/	/	/	/	/	/
David James		/	/	ab	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Gordon McOmber		/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Larry Aber		/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Tom Harrison		/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Herb Klindt		/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Harry Northey		/	/	/	/	/	/	/	/	/	/	/	/	ab	/	/	/	/	/	/
Pete Story		/	/	/	/	ab	/	/	/	/	/	/	/	/	/	/	/	/	/	/

JUDICIARY

[illegible]

SENATE JUDICIARY COMMITTEE---February 5, 1973

The meeting was called to order by Chairman McKeon--all members were present. The first bill discussed was SB 208 sponsored by Senator Turnage who explained its purposes. He introduces several speakers including:

- 1) Hal Price, Chief of the Community Development Bureau
- 2) Don Kinney, President of the Montana Association of Prof. Planners
- 3) Rick Mayfield, Planning Director in Gallatin County
- 4) Craig Winerbern (sp.) rancher in Helena Valley.
- 5) Milt Smith, Montana Society for Engineers
- 6) John Morrison, Legislative chairman of the Mont. Soc. of Engineers
- 7) Jim Hahn, Legislative chairman of Montana Land Surveyors
- 8) Jean Anderson, League of Women Voters--Ms. Anderson also supported HB 341.
- 9) Paul B. Brunner, Realtor from Ovando
- 10) Wesley W. Stern, County Commissioner of Sanders
- 11) Don Aldrich, Montana Wild Life Association
- 12) Mike Chandler, Realtor from Missoula
- 13) Dean Zennicher (sp) County Commissioner
- 14) Jerry Lyndorf, Montana Assoc. of Real Estate Boards--supported the bill with certain amendments
- 15) Clyde Tompkins, Land developer from Polson--supported with conditions
- 16) Robert Shelton, Land surveyor from Missoula
- 17) Ira Tillitson (sp) Land surveyor from Helena
- 18) Bruce Nelson, Legislative chairman for Mont. Farm and Land Brokers from Great Falls

All of the above speakers supported SB 208.

Next the committee discussed SB 268 sponsored by Sen. Flynn who spoke. The following people testified:

- 1) Ross Cannon, Montana Mobile Homes Association--supported 267, 268 & 269.
- 2) Don Garrity (sp)--supported
- 3) Jean Anderson, League of Women Voters--opposed SB 268
- 4) Don Kinney, Mont. Assoc. of Professional Planners--opposed 268
- 5) Dean Zennicher (sp) -- supported
- 6) Jerry Lyndorf--opposed
- 7) Harold McCollum, President of Mobile Home Assoc.--supported

Next the committee discussed SB 154 sponsored by Sen. Flynn who spoke. He introduced:

- 1) Sen. Deschamps of Missoula who supported the bill.
- 2) Don Kinney, Mont. Assoc. of Professional Planners--opposed.
- 3) Dean Zennicher (sp) -- opposed.
- 4) William Riggert, Missoula County Airport--opposed
- 5) Jean Anderson--League of Women Voters--opposed

The next bill discussed was SB 219. Diane Dowling, attorney from Helena spoke supporting the bill. Sen. Gilfeather moved this bill do pass; Sen. Turnage seconded; and the committee unanimously voted this bill DO PASS.



The Big Sky Country

MONTANA STATE SENATE

February 6, 1973

Judiciary Committee
Montana Senate
Helena, Montana 59601

Lady & Gentlemen:

We your sub-committee on bills relating to sub-divisions and zoning respectfully report as follows:

That Senate Bill 208 be amended in accordance with the amendments attached hereto and that as amended do pass.

That Senate Bill 173 requiring registration of lands proposed to be sub-divided do not pass.

That Senate Bill 172 relating to realtors do not pass.

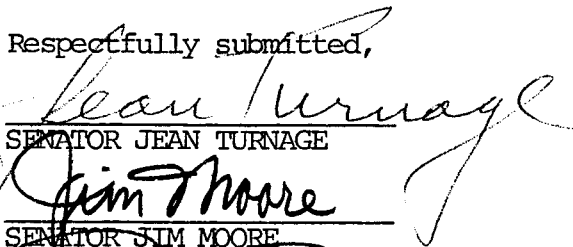
That Senate Bill 154 repealing emergency zoning authorization do pass.

That Senate Bill 268 establishing a State Board of Land Review for appeal of local zoning decisions do not pass.

That Senate Bill 269 relating to housing study to be contained in master plan do pass.

That Senate Bill 267 relating to freedom of choice to select housing be amended and that the amendments be submitted at a later date.

Respectfully submitted,


SENATOR JEAN TURNAGE


SENATOR JIM MOORE


SENATOR PAUL BOYLAN

Attachments
JT:bbl

SENATE JUDICIARY COMMITTEE---February 7, 1973

The meeting was called to order by Chairman McKeon. All members were present. The first bill discussed was SB 242 which was explained to the committee by Barne Regan, Montana Legal Services. Senator Turnage moved this bill do pass; Sen. Mathers seconded the motion; and the committee voted that SB 242 DO PASS.

Senator McNamer sponsored many of the bills in the committee--including 340, 341, 356, 432--and spoke on each of these. He also spoke on SB 337 even though it was scheduled for an evening hearing, because he could not attend the hearing.

Next, Sen. Lynch spoke on SB 415, which he sponsored. He introduced:

- 1) Rich Weddle, Division of Planning--supported
- 2) Frank Mose, Dept. of Revenue--suggested a short amendment.
- 3) Glen Canny, Surety Title Company--supported.

The following bills had action taken on them:

SB 432 Sen. Turnage moved this bill do not pass; Sen. Moore seconded the motion; and the committee voted this bill DO NOT PASS.

SB 337 Senator Turnage moved this bill do pass; Sen. Boylan seconded the motion; and the committee voted this bill DO PASS, AS AMENDED. Sen. Turnage moved to amend the bill in Section 1, subsection 4, page 3, line 14 following the word "gas" by inserting the punctuation and words ", coal". Sen. Moore seconded the motion; and the committee adopted the amendments.

SB 424 Sen. Gilfeather moved this bill do pass; Sen. Mathers seconded the motion and the committee voted the bill DO PASS.

SB 208 Sen. Gilfeather moved that this bill be amended in accordance with the subcommittee's proposals (which are attached). Sen. Mathers seconded the motion; and the committee adopted the amendments.

Sen. Turnage moved this bill do pass as amended; Sen. Boylan seconded; and the committee voted this bill DO PASS AS AMENDED.

SB 267 Sen. Gilfeather moved this bill adopt the subcommittee's amendments. Sen. Turnage seconded and the committee voted to adopt the amendments, were in Section 2, page 1, line 24 following the word "welfare." by adding the following new material: "This act does not apply to covenants that run with the land which are now or hereafter made a matter of record provided the covenants are not a part of an ordinance or other act of any agency or political subdivision of this state."

Sen. Turnage moved this bill do pass as amended; Sen. Mathers seconded the motion; and the committee voted this bill DO PASS AS AMENDED.

Amend page 3, line 10, by striking the words "neat and"

Amend page 3, line 11, by striking the words "showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnish a basis for review by a governing body; and the" *and by adding the punc. "period (.)" after the word "subdivision" in line 11.*

Amend page 3, line 14, by inserting the word "The" after the word "the"

Amend page 3, line 14, by inserting the word "proposed" after the word "any"

Amend page 3, line 15, by striking the word "that" and adding in lieu thereof the word "to"

Amend page 3, line 15, by adding the following words after the word "land": "and other elements of the proposed subdivision required to furnish a basis of review by the governing body"

Amend line 22, page 3, by adding after the word "licensed" the following words: "in conformance with the Montana Professional Engineers' Registration Act (sections 66-2301 through 66-2347)"

Amend line 23, page 3, by adding a new subsection 10 as follows:

(10) "Registered professional engineer" means a person licensed in conformance with the Montana Professional Engineers' Act (sections 66-2301 through 66-2347) to practice engineering in the state of Montana."

Amend line 23, page 3, by renumbering the old subsection (10) to read (11)

Amend line 25, page 3, by renumbering the old subsection (11) to read (12)

Amend line 1, page 4, section 3, by inserting a comma after the word "parcels" and adding the words "whether contiguous or not."

Amend line 2, page 4, by striking the word "forty (40)" and inserting the word "ten (10)"

Amend line 2, page 4, by inserting the words "exclusive of public roadways" after the word "acres"

Amend line 3, page 4, by striking the words "as a quarter-quarter section or a United States government lot," and inserting the words "except by metes and bounds"

Amend line 15, page 4, by striking the word "forty (40)" and inserting the word "ten (10)", and by inserting the words "exclusive of public roadways" after the word "acre"

Amend line 15, page 4, by striking the semicolon after the word "size"

Amend lines 16 and 17, page 4, by striking the words "as a quarter-quarter section or a United States government lot" and inserting in lieu thereof the following "except by metes and bounds"

Amend line 18, page 4, by adding after the word "parcels" the words "smaller than ten (10) acres in size" and by adding after the word "tract" the words "whether contiguous or not"

Amend line 20, page 4, by striking the words "divisions of real property" and by adding in lieu thereof the word "subdivisions"

Amend lines 20, 21, 22, 23, and 24, page 4, by striking the words "into lots, tracts, or parcels any of which is less than forty acres in size and cannot be described as a quarter-quarter section or a United States government lot or into tracts" by inserting in lieu thereof "or divisions"

Amend page 5, line 19, by adding the following new sentence after the period: "Engineering plans, specifications, reports, and soils and ground water investigations required in connection with public improvements and other elements of the subdivision required by the governing body shall be prepared and filed by a registered engineer in accordance with this act and regulations adopted pursuant thereto."

Amend page 6, line 8, by inserting the following words after the word "law": ", or which, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain (sections 93-9901 through 93-9926)."

Amend page 6, line 14, by adding a new subparagraph (e) which reads as follows: "(e) which is created by a rental or lease agreement for a term of three (3) years or less"

Amend page 7, line 4, by inserting after the word "roadways" the words "and for public utility easements"

Amend page 7, line 12, by adding the word "access" after the word "drainage"

Amend page 7, line 14, by adding a new paragraph after the word "services" which reads as follows: "Before the governing body adopts subdivision regulations pursuant to this section it shall hold a public hearing thereon and shall give public notice of its intent to adopt such regulations and of the public hearing by publication of notice of the time and place of the hearing in each newspaper published in the county not less than fifteen (15) nor more than thirty (30) days prior to the date of the hearing."

Amend page 7, line 22, by inserting after the word "government" the words "and affected public utilities"

Amend page 7, line 24, by inserting after the word "agency" the words "or utility"

Amend page 8, line 13, by adding a new subsection after the word "approval" which reads as follows: "(4) Subdivision regulations may authorize the governing body to grant variances from the regulations when strict compliance will result in undue hardship and when it is not essential to the public welfare. Any variance granted pursuant to this subsection must be based on specific variance criteria contained in the subdivision regulations."

Amend page 8, line 14, by renumbering the old subsection "(4)" to read "(5)"

Amend page 10, line 12, by adding a new subsection after the word "area" which reads as follows: "(5) The local governing body may waive dedication and cash donation requirements where all of the parcels in a subdivision are five (5) acres or more in size and where the subdivider enters a covenant to run with the land and revokable only by consent of the governing body that the parcels in the subdivision will never be subdivided into parcels of less than five (5) acres and that all parcels in the subdivision will be used for single family dwellings"

Amend page 12, line 10, by adding the following words after the word "evidence": "relating to the public health, safety and welfare"

Amend page 12, line 12, by adding a new sentence after the word "body" which reads as follows: "Notice of such hearing shall be given by publication in a newspaper published in the county not less than fifteen (15) days prior to the date of the hearing."

Amend page 14, line 3, by adding the following words after the word "interest": "other than as draftsman of the plat"

Amend page 15, line 2, by adding a "(1)" after the words "section 12"

Amend page 15, line 14, by adding two new subsections (2) and (3) which read as follows:

"(2) All plats and other title records which were recorded prior to the effective date of this act in accordance with the law in force at the time of recording and which have not been subsequently vacated are hereby validated, notwithstanding irregularities, and have the same legal status as plats recorded under the provisions of this act."

"(3) The recording of any plat made in compliance with the provisions of this act shall serve to establish the identity of all lands shown on and being a part of such plat. Where lands are

conveyed by reference to a plat, the plat itself or any copy of the plat properly certified by the county clerk and recorder as being a true copy thereof, shall be regarded as incorporated into the instrument of conveyance and shall be received in evidence in all courts of this state."

Amend page 17, line 6, by adding the words "at its own expense" after the word "may"

Amend page 17, line 7, by striking the word "require" and inserting in lieu thereof the word "cause"

SENATE BILL NO. 208

INTRODUCED BY TURNAGE, MOORE, GROFF, LYNCH

11-601 THROUGH 11-616, 11-3843 THROUGH 11-3848, 11-3851

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LOCAL GOVERNING BODIES TO ADOPT SUBDIVISION REGULATIONS; PROVIDING FOR THE ADMINISTRATIVE ESTABLISHMENT OF PROCEDURES AND REQUIREMENTS FOR PREPARATION OF SUBDIVISION PLATS; SETTING FORTH REQUIREMENTS FOR SURVEYING AND PLATTING DIVISIONS OF REAL PROPERTY AND FOR RECORDING SURVEYS AND PLATS; PROVIDING FOR SURVEYING, PLATTING, AND SUBDIVIDING GENERALLY; AND REPEALING SECTIONS 11-601 THROUGH 11-616, 11-3843 THROUGH 11-3848 AND 11-3851, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. This act may be cited as the "Montana Subdivision and Platting Act."

Section 2. It is the purpose of this act to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other

public requirements; to encourage development in harmony with the natural environment; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to plat or certificate of survey.

Section 3. As used in this act, unless the context or subject matter clearly requires otherwise, the following words or phrases shall have the following meanings:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to himself no rights which are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(3) "Examining land surveyor" means a county surveyor or a registered land surveyor duly appointed to review surveys and plats submitted for filing.

(4) "Governing body" means a board of county commissioners or the governing authority of any city or town organized pursuant to law.

(5) "Planned unit development" means a land development project consisting of residential clusters,

SECOND READING

1 industrial parks, shopping centers, or office building
2 parks, or any combination thereof which comprises a planned
3 mixture of land uses built in a prearranged relationship to
4 each other and having open space and community facilities in
5 common ownership.

6 (6) "Plat" means a graphical representation of a
7 subdivision showing the division of a tract or parcel of
8 land into lots, blocks, streets, and alleys, and other
9 divisions and dedications.

10 (7) "Preliminary plat" means a ~~neat--and~~ scaled
11 drawing of a proposed subdivision, ~~showing the layout of~~
12 ~~streets, alleys, lots, blocks, and other elements of a~~
13 ~~subdivision which furnish a basis for review by a governing~~
14 ~~body, and the~~ THE same shall be accompanied by any PROPOSED
15 covenants ~~that~~ TO run with the platted land AND OTHER
16 ELEMENTS OF THE PROPOSED SUBDIVISION REQUIRED TO FURNISH A
17 BASIS OF REVIEW BY THE GOVERNING BODY.

18 (8) "Final plat" means the final drawing of the
19 subdivision and dedication prepared for filing for record
20 with the county clerk and recorder and containing all
21 elements and requirements set forth in this act and in
22 regulations adopted pursuant thereto.

23 (9) "Registered land surveyor" means a person
24 licensed IN CONFORMANCE WITH THE MONTANA PROFESSIONAL
25 ENGINEERS' REGISTRATION ACT (SECTIONS 66-2301 THROUGH

1 66-2347) to practice surveying in the state of Montana.

2 (10) "REGISTERED PROFESSIONAL ENGINEER" MEANS A PERSON
3 LICENSED IN CONFORMANCE WITH THE MONTANA PROFESSIONAL
4 ENGINEERS' ACT (SECTIONS 66-2301 THROUGH 66-2347) TO
5 PRACTICE ENGINEERING IN THE STATE OF MONTANA.

6 ~~(10)~~ (11) "Subdivider" means any person who causes
7 land to be subdivided or who proposes a subdivision of land.

8 ~~(11)~~ (12) "Subdivision" means the division of land, or
9 land so divided, into two (2) or more parcels, WHETHER
10 CONTIGUOUS OR NOT, any of which is less than ~~forty-(40)~~ ten
11 (10) acres EXCLUSIVE OF PUBLIC ROADWAYS in size and cannot
12 be described ~~as a quarter-quarter-section or a United States~~
13 ~~government lot,~~ EXCEPT BY METES AND BOUNDS in order that the
14 title or possession of the parcels or any interest therein
15 may be sold, rented, leased, or otherwise conveyed either
16 immediately or in the future whether the division is made by
17 reference to a map or survey or by a metes-and-bounds
18 description of the parcels, and shall include any
19 resubdivision of land; provided further that a division of
20 land is a subdivision when the division creates a second or
21 any subsequent parcel for the purpose of sale, rent, lease,
22 or other conveyance from a tract of land held in single or
23 undivided ownership on July 1, 1973, where any of the
24 parcels segregated from the original tract is less than
25 ~~forty-(40)~~ TEN (10) acres EXCLUSIVE OF PUBLIC ROADWAYS in

34

size, and cannot be described ~~as-a-quarter-quarter-section or-as-a-United-States-government-lot~~ EXCEPT BY METES AND BOUNDS; the plat of a subdivision so created shall show all of the parcels SMALLER THAN TEN (10) ACRES IN SIZE segregated from the original tract WHETHER CONTIGUOUS OR NOT.

Section 4. (1) Except as provided herein, all ~~divisions--of-real-property~~ SUBDIVISIONS made after June 30, 1973, ~~into-lots, tracts, or parcels any--of--which--is--less than--forty--(40)--acres-in-size-and-cannot-be-described-as-a quarter-quarter-section-or-a-United-States--government--lot, or--into--tracts~~ OR DIVISIONS of land the boundaries or area of which cannot be determined without a survey or trigonometric calculation, must be surveyed by or under the supervision of a registered surveyor; and a certificate of survey thereof must be completed by the surveyor and filed by him in the office of the county clerk and recorder of the county in which the real property lies.

(2) Every subdivision of land after June 30, 1973, shall be surveyed and platted in conformance with this act by or under the supervision of a registered land surveyor. Subdivision plats shall be prepared and filed in accordance with this act and regulations adopted pursuant thereto. Each subdivision plat must be accompanied by as complete a survey of the section or sections in which the subdivision

is located as may be necessary to properly orient the subdivision within such section or sections. All division of sections into aliquot parts and retracement of lines must conform to United States bureau of land management instructions, and all public land survey corners shall be filed in accordance with the Corner Recordation Act of Montana (sections 67-2001 through 67-2019). ENGINEERING PLANS, SPECIFICATIONS, REPORTS, AND SOILS AND GROUND WATER INVESTIGATIONS REQUIRED IN CONNECTION WITH PUBLIC IMPROVEMENTS AND OTHER ELEMENTS OF THE SUBDIVISION REQUIRED BY THE GOVERNING BODY SHALL BE PREPARED AND FILED BY A REGISTERED ENGINEER IN ACCORDANCE WITH THIS ACT AND REGULATIONS ADOPTED PURSUANT THERETO.

(3) Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with section 32-2413, and are exempted from the surveying and platting requirements of this act; provided, however, that if such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording.

(4) Unless the method of disposition is adopted for the purpose of evading this act, the requirements of this act shall not apply to any division of land:

35

1 (a) which is created by order of any court of record
 2 in this state or by operation of law, OR WHICH, IN THE
 3 ABSENCE OF AGREEMENT BETWEEN THE PARTIES TO THE SALE, COULD
 4 BE CREATED BY AN ORDER OF ANY COURT IN THIS STATE PURSUANT
 5 TO THE LAW OF EMINENT DOMAIN (SECTIONS 93-9901 THROUGH
 6 93-9926);
 7 (b) which is created by a lien, mortgage, or trust
 8 indenture;
 9 (c) which creates an interest in oil, gas, minerals,
 10 or water which is now or hereafter severed from the surface
 11 ownership of real property;
 12 (d) which creates cemetery lots;
 13 (e) WHICH IS CREATED BY A RENTAL OR LEASE AGREEMENT
 14 FOR A TERM OF THREE (3) YEARS OR LESS.

15 (5) The department of intergovernmental relations
 16 shall, in conformance with the Montana Administrative
 17 Procedure Act (sections 82-4201 through 82-4225), prescribe
 18 uniform standards for monumentation and for the form,
 19 accuracy, and descriptive content of records of survey.
 20 (6) It shall be the responsibility of the governing
 21 body to require the replacement of all monuments removed in
 22 the course of construction.

23 Section 5. (1) The governing body of every county,
 24 city, and town shall, before July 1, 1974, adopt and provide
 25 for the enforcement and administration of subdivision

1 regulations reasonably providing for the orderly development
 2 of their jurisdictional areas; for the coordination of roads
 3 within subdivided land with other roads, both existing and
 4 planned; for the dedication of land for roadways AND FOR
 5 PUBLIC UTILITY EASEMENTS; for the improvement of roads; for
 6 the provision of adequate open spaces for travel, light, air
 7 and recreation; for the provision of adequate
 8 transportation, water, drainage, and sanitary facilities;
 9 for the avoidance of congestion; and for the avoidance of
 10 subdivision which would involve inordinate environmental
 11 degradation or danger or injury to health, safety, or
 12 welfare by reason of natural hazard or the lack of water,
 13 drainage ACCESS, transportation or other public services or
 14 would necessitate an excessive expenditure of public funds
 15 for the supply of such services.

16 BEFORE THE GOVERNING BODY ADOPTS SUBDIVISION
 17 REGULATIONS PURSUANT TO THIS SECTION IT SHALL HOLD A PUBLIC
 18 HEARING THEREON AND SHALL GIVE PUBLIC NOTICE OF ITS INTENT
 19 TO ADOPT SUCH REGULATIONS AND OF THE PUBLIC HEARING BY
 20 PUBLICATION OF NOTICE OF THE TIME AND PLACE OF THE HEARING
 21 IN EACH NEWSPAPER PUBLISHED IN THE COUNTY NOT LESS THAN
 22 FIFTEEN (15) NOR MORE THAN THIRTY (30) DAYS PRIOR TO THE
 23 DATE OF THE HEARING.

24 (2) The department of intergovernmental relations
 25 shall, in conformance with the Montana Administrative

1 Procedure Act (sections 82-4201 through 82-4225), prescribe
 2 minimum administrative and review procedures to be contained
 3 in, and those subject areas which must be addressed by,
 4 subdivision regulations adopted pursuant to this act. The
 5 department shall provide for the review of preliminary plans
 6 by those agencies of state and local government AND AFFECTED
 7 PUBLIC UTILITIES having a substantial interest in proposed
 8 subdivision; provided, however, that such agency OR UTILITY
 9 review shall not delay the governing body's action on the
 10 plat beyond the time limit specified herein, and the failure
 11 of any agency to complete a review of a plat shall not be a
 12 basis for rejection of the plat by the governing body.

13 (3) Local subdivision regulations shall include
 14 procedures for the summary review and approval of
 15 subdivision plats containing five (5) or fewer parcels all
 16 of which front on an existing public road where no land in
 17 the subdivision will be dedicated to public use and which
 18 have been approved by the department of health and
 19 environmental sciences where such approval is required by
 20 sections 69-5001 through 69-5005; provided that reasonable
 21 local regulations may contain additional requirements for
 22 summary approval.

23 (4) SUBDIVISION REGULATIONS MAY AUTHORIZE THE
 24 GOVERNING BODY TO GRANT VARIANCES FROM THE REGULATIONS WHEN
 25 STRICT COMPLIANCE WILL RESULT IN UNDUE HARDSHIP AND WHEN IT

1 IS NOT ESSENTIAL TO THE PUBLIC WELFARE. ANY VARIANCE
 2 GRANTED PURSUANT TO THIS SUBSECTION MUST BE BASED ON
 3 SPECIFIC VARIANCE CRITERIA CONTAINED IN THE SUBDIVISION
 4 REGULATIONS.

5 (4) (5) Local regulations may provide that in lieu of
 6 the completion of the construction of any public
 7 improvements prior to the approval of a final plat, the
 8 governing body may accept a bond or other reasonable
 9 security, in an amount and with surety and conditions
 10 satisfactory to it, providing for and securing the
 11 construction and installation of such improvements within a
 12 period specified by the governing body and expressed in the
 13 bonds or other security.

14 Section 6. (1) A subdivision plat in which any lot
 15 is five (5) acres or less in size shall show that one-ninth
 16 (1/9) of the platted area, exclusive of all other
 17 dedications, is forever dedicated to the public for parks
 18 and playgrounds.

19 A subdivision plat in which all lots shown are greater
 20 than five (5) acres in size shall show that one-twelfth
 21 (1/12) of the platted area, exclusive of all other
 22 dedications, is forever dedicated to the public for parks
 23 and playgrounds. There shall be no requirement for
 24 dedication of parks and playgrounds when the subdivision
 25 plat show that all lots are greater than ten (10) acres in

1 size. The governing body, in consultation with the planning
2 board having jurisdiction, may determine suitable locations
3 for such parks and playgrounds.

4 (2) Where, because of size, topography, shape,
5 location, or other circumstances, the dedication of land for
6 parks and playgrounds is undesirable, the governing body
7 may, for good cause shown, make an order to be endorsed and
8 certified on the plat accepting a cash donation in lieu of
9 the dedication of land and equal to the fair market value of
10 the amount of land that would have been dedicated. For the
11 purpose of this section, the fair market value is the value
12 of the unsubdivided, unimproved land. Such cash donation
13 shall be paid into the park fund to be used for the purchase
14 of additional lands or for the initial development of parks
15 and playgrounds.

16 (3) If the proposed plat provides for a planned unit
17 development with land permanently set aside for park and
18 recreational uses sufficient to meet the needs of the
19 persons who will ultimately reside therein, the governing
20 body may issue an order waiving land dedication and cash
21 donation requirements.

22 (4) If a tract of land is being developed under
23 single ownership as a part of an overall plan, and part of
24 the tract has been subdivided and sufficient park lands have
25 been dedicated to the public from the area that has been

1 subdivided to meet the requirements of this section for the
2 entire tract being developed, the governing body shall issue
3 an order waiving the land dedication and cash donation
4 requirements for the subsequently platted area.

5 (5) THE LOCAL GOVERNING BODY MAY WAIVE DEDICATION AND
6 CASH DONATION REQUIREMENTS WHERE ALL OF THE PARCELS IN A
7 SUBDIVISION ARE FIVE (5) ACRES OR MORE IN SIZE AND WHERE THE
8 SUBDIVIDER ENTERS A COVENANT TO RUN WITH THE LAND AND
9 REVOCABLE ONLY BY CONSENT OF THE GOVERNING BODY THAT THE
10 PARCELS IN THE SUBDIVISION WILL NEVER BE SUBDIVIDED INTO
11 PARCELS OF LESS THAN FIVE (5) ACRES AND THAT ALL PARCELS IN
12 THE SUBDIVISION WILL BE USED FOR SINGLE FAMILY DWELLINGS.

13 Section 7. Where a subdivision platted under this act
14 contains land to be dedicated to public use, the subdivider
15 shall submit with the preliminary plat either:

16 (1) a certificate of a licensed title abstractor
17 showing the names of the owners of record of the land to be
18 dedicated and the names of lien holders or claimants of
19 record against the land and the written consent to the
20 dedication by the owners of the land, if other than the
21 subdivider, and any lien holders or claimants of record
22 against the land; or

23 (2) title insurance guaranteeing the public's
24 interest in the dedicated land in a reasonable amount to be
25 determined by the governing body.

1 Section 8. (1) Except where a plat is eligible for
 2 summary approval the subdivider shall present to the
 3 governing body, or the agent or agency designated thereby,
 4 the preliminary plat of the proposed subdivision for local
 5 review. When the proposed subdivision lies within the
 6 boundaries of an incorporated city or town, the preliminary
 7 plat shall be submitted to and approved by the city or town
 8 governing body. When the proposed subdivision is situated
 9 entirely in an unincorporated area the preliminary plat
 10 shall be submitted to and approved by the governing body of
 11 the county; however, if the proposed subdivision lies within
 12 one (1) mile of a third class city or town or within two (2)
 13 miles of a second class city or within three (3) miles of a
 14 first class city the county governing body shall submit the
 15 preliminary plat to the city or town governing body for
 16 review and comment. If the proposed subdivision lies partly
 17 within an incorporated city or town, the proposed plat
 18 thereof must be submitted to and approved by both the city
 19 or town and the county governing bodies. This section does
 20 not limit the authority of certain municipalities to
 21 regulate subdivisions beyond their corporate limits pursuant
 22 to section 11-3305.

23 (2) The governing body shall approve, conditionally
 24 approve, or reject the preliminary plat within forty-five
 25 (45) days of its presentation. The preliminary plat shall

1 show all pertinent features of the proposed subdivision and
 2 all proposed improvements. The governing body or its
 3 designated agent or agency shall review the preliminary plat
 4 to determine whether it conforms to the local master plan if
 5 one has been adopted pursuant to sections 11-3801 through
 6 11-3856 to the provisions of this act, and to rules and
 7 regulations prescribed or adopted pursuant to this act.

8 (3) The governing body or its authorized agent or
 9 agency shall hold a public hearing on the preliminary plat
 10 and shall consider all relevant evidence RELATING TO THE
 11 PUBLIC HEALTH, SAFETY AND WELFARE to determine whether the
 12 plat should be approved, conditionally approved, or
 13 disapproved by the governing body. NOTICE OF SUCH HEARING
 14 SHALL BE GIVEN BY PUBLICATION IN A NEWSPAPER PUBLISHED IN
 15 THE COUNTY NOT LESS THAN FIFTEEN (15) DAYS PRIOR TO THE DATE
 16 OF THE HEARING. When a hearing is held by an agent or agency
 17 designated by the governing body, the agent or agency shall
 18 act in an advisory capacity and recommend to the governing
 19 body the approval, conditional approval, or disapproval of
 20 the plat. This recommendation must be submitted to the
 21 governing body in writing not later than ten (10) days after
 22 the public hearing. If the governing body rejects or
 23 conditionally approves the preliminary plat, it shall
 24 forward one (1) copy of the plat to the subdivider
 25 accompanied by a letter over the appropriate signature

1 stating the reason for rejection or enumerating the
 2 conditions which must be met to assure approval of the final
 3 plat.
 4 (4) Upon approving or conditionally approving a
 5 preliminary plat, the governing body shall affix a dated and
 6 signed statement of approval to the preliminary plat. The
 7 governing body shall forward one (1) copy of the approval
 8 statement to the subdivider. This approval shall be in
 9 force for not more than one (1) calendar year; at the end of
 10 this period the governing body may, at the request of the
 11 subdivider, extend its approval for no more than one (1)
 12 calendar year.

13 Section 9. (1) All final subdivision plats shall be
 14 reviewed for errors and omissions in calculation or drafting
 15 by an examining land surveyor. He shall ascertain that all
 16 features, such as streets, drainage, and all other
 17 improvements and facilities to be operated or maintained
 18 with public funds, are essentially the same as those shown
 19 on the approved preliminary plat; that the permanent control
 20 monuments meet requirements prescribed pursuant to this act;
 21 that all exterior boundaries and corners of the tract are
 22 shown in sufficient detail so as to leave no doubt as to how
 23 they were established; and that all monuments and references
 24 marking exterior corners conform to standards of size and
 25 position promulgated pursuant to this act. When the survey

1 data shown on the plat meet the conditions set forth by or
 2 pursuant to this act, the examining land surveyor shall so
 3 certify in a printed or stamped certificate on the plat;
 4 such certificate shall be signed by him.

5 No land surveyor shall act as an examining land
 6 surveyor in regard to a plat in which he has a financial or
 7 personal interest OTHER THAN AS DRAFTSMAN OF THE PLAT.

8 (2) The governing body shall examine every final
 9 subdivision plat and shall approve it for record when it
 10 conforms to the conditions of approval set forth on the
 11 preliminary plat. The clerk and recorder of the county
 12 shall refuse to accept any plat for record that fails to
 13 have such approval in proper form.

14 (3) Every final subdivision plat must be filed for
 15 record with the county clerk and recorder before any
 16 interest in the subdivided land can be sold, rented, leased,
 17 or transferred in any manner or offered for sale, lease, or
 18 transfer. If illegal transfers or offers of any manner are
 19 made, the county attorney shall commence action to enjoin
 20 further sales, transfers, or offers of sale or transfer and
 21 compel compliance with all provisions of this act. The cost
 22 of such action shall be imposed against the person
 23 transferring or offering to transfer the property.

24 Section 10. The governing body may establish
 25 reasonable fees to be paid by the subdivider to defray the

1 expense of reviewing subdivision plats.

2 Section 11. All covenants shall be considered to run
3 with the land, whether marked or noted on the subdivision
4 plat or contained in a separate instrument recorded with the
5 plat.

6 Section 12. (1) Any plat prepared and recorded as
7 herein provided may be vacated either in whole or in part as
8 provided by sections 11-2801 and 11-2803, and upon such
9 vacation the title to the streets and alleys of such vacated
10 portions to the center thereof shall revert to the owners of
11 the properties within the platted area adjacent to such
12 vacated portions; provided however, that when any pole line,
13 pipe line, or any other public or private facility that is
14 located in a vacated street or alley at the time of the
15 reversion of the title thereto, the owner of said public or
16 private utility facility shall have an easement over the
17 vacated land to continue the operation and maintenance of
18 the public utility facility.

19 (2) ALL PLATS AND OTHER TITLE RECORDS WHICH WERE
20 RECORDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT IN
21 ACCORDANCE WITH THE LAW IN FORCE AT THE TIME OF RECORDING
22 AND WHICH HAVE NOT BEEN SUBSEQUENTLY VACATED ARE HEREBY
23 VALIDATED, NOTWITHSTANDING IRREGULARITIES, AND HAVE THE SAME
24 LEGAL STATUS AS PLATS RECORDED UNDER THE PROVISIONS OF THIS
25 ACT.

1 (3) THE RECORDING OF ANY PLAT MADE IN COMPLIANCE WITH
2 THE PROVISIONS OF THIS ACT SHALL SERVE TO ESTABLISH THE
3 IDENTITY OF ALL LANDS SHOWN ON AND BEING A PART OF SUCH
4 PLAT. WHERE LANDS ARE CONVEYED BY REFERENCE TO A PLAT, THE
5 PLAT ITSELF OR ANY COPY OF THE PLAT PROPERLY CERTIFIED BY
6 THE COUNTY CLERK AND RECORDER AS BEING A TRUE COPY THEREOF,
7 SHALL BE REGARDED AS INCORPORATED INTO THE INSTRUMENT OF
8 CONVEYANCE AND SHALL BE RECEIVED IN EVIDENCE IN ALL COURTS
9 OF THIS STATE.

10 Section 13. Every donation or grant to the public, or
11 to any person, society, or corporation, marked or noted on a
12 plat is to be considered a grant to the donee.

13 Section 14. (1) Within one hundred eighty (180) days
14 of the completion of a survey the registered land surveyor
15 responsible for the survey, whether he is privately or
16 publicly employed, shall prepare and file for record a
17 certificate of survey in the county in which the survey was
18 made if the survey:

19 (a) provides material evidence not appearing on any
20 map filed with the county clerk and recorder or contained in
21 the records of the United States bureau of land management;

22 (b) reveals a material discrepancy in such map;

23 (c) discloses evidence to suggest alternate locations
24 of lines or points;

25 (d) establishes one or more lines not shown on a

1 recorded map the positions of which are not ascertainable
2 from an inspection of such map without trigonometric
3 calculations.

4 (2) A certificate of survey will not be required for
5 any survey which is made by the United States bureau of land
6 management or which is preliminary or which will become part
7 of a subdivision plat being prepared for recording under the
8 provisions of this act.

9 (3) Certificates of survey shall be legibly drawn,
10 printed, or reproduced by a process guaranteeing a permanent
11 record and shall conform to monumentation and surveying
12 requirements promulgated under this act.

13 Section 15. The county clerk and recorder shall
14 maintain an index of all recorded subdivision plats and
15 certificates of survey. This index shall list plats and
16 certificates of survey by the quarter section, section,
17 township, and range in which the platted or surveyed land
18 lies and shall list the recording or filing numbers of all
19 plats depicting lands lying within each quarter section.
20 Each quarter section list shall be definitive to the
21 exclusion of all other quarter sections. The index shall
22 also list the names of all subdivision plats in alphabetical
23 order and the place where filed.

24 Section 16. When a recorded plat does not definitely
25 show the location or size of lots or blocks, or the location

1 or width of any street or alley, the governing body may AT
2 ITS OWN EXPENSE ~~require~~ CAUSE a new and correct survey and
3 plat to be made and recorded in the office of the county
4 clerk. The corrected plat must, to the extent possible,
5 follow the plan of the original survey and plat. The
6 surveyor making the resurvey shall endorse the corrected
7 plat referring to the original plat and noting the defect
8 existing therein and the corrections made.

9 Section 17. Every registered land surveyor may
10 administer and certify oaths:

11 (1) when it becomes necessary to take testimony for
12 the identification of old corners or reestablishment of lost
13 or obliterated corners;

14 (2) when a corner or monument is found in a
15 deteriorating condition and it is desirable that evidence
16 concerning it be perpetuated;

17 (3) when the importance of the survey makes it
18 desirable to administer an oath to his assistants for the
19 faithful performance of their duty.

20 A record of oaths shall be preserved as part of the
21 field notes of the survey, and noted on the certificate of
22 survey filed under this section.

23 Section 18. Any person who violates any provision of
24 this act or any local regulations adopted pursuant thereto
25 shall be guilty of a misdemeanor and punishable by a fine of

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1 not less than one hundred dollars (\$100) or more than five
2 hundred dollars (\$500) or by imprisonment in a county jail
3 for not more than three (3) months, or by both fine and
4 imprisonment. Each sale, lease or transfer, or offer for
5 sale, lease, or transfer of each separate parcel of land in
6 violation of any provision of this act or any local
7 regulation adopted pursuant thereto shall be deemed a
8 separate and distinct offense.

9 Section 19. If any provision of this act or its
10 application to any person or circumstances is held invalid,
11 the remainder of the act or the application of the provision
12 to other persons or circumstances is not affected.

13 Section 20. Sections 11-601 through 11-616, 11-3843
14 through 11-3848, and 11-3851, R. C. M. 1947, are repealed.

-End-

SENATE BILL NO. 208

INTRODUCED BY TURNAGE, MOORE, GROFF, LYNCH

11-601 THROUGH 11-616, 11-3843 THROUGH 11-3848, 11-3851

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LOCAL GOVERNING BODIES TO ADOPT SUBDIVISION REGULATIONS; PROVIDING FOR THE ADMINISTRATIVE ESTABLISHMENT OF PROCEDURES AND REQUIREMENTS FOR PREPARATION OF SUBDIVISION PLATS; SETTING FORTH REQUIREMENTS FOR SURVEYING AND PLATTING DIVISIONS OF REAL PROPERTY AND FOR RECORDING SURVEYS AND PLATS; PROVIDING FOR SURVEYING, PLATTING, AND SUBDIVIDING GENERALLY; AND REPEALING SECTIONS 11-601 THROUGH 11-616, 11-3843 THROUGH 11-3848 AND 11-3851, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. This act may be cited as the "Montana Subdivision and Platting Act."

Section 2. It is the purpose of this act to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other

public requirements; to encourage development in harmony with the natural environment; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to plat or certificate of survey.

Section 3. As used in this act, unless the context or subject matter clearly requires otherwise, the following words or phrases shall have the following meanings:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to himself no rights which are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(3) "Examining land surveyor" means a county surveyor or a registered land surveyor duly appointed to review surveys and plats submitted for filing.

(4) "Governing body" means a board of county commissioners or the governing authority of any city or town organized pursuant to law.

(5) "Planned unit development" means a land development project consisting of residential clusters,

Third Reading - Done

un

1 industrial parks, shopping centers, or office building
2 parks, or any combination thereof which comprises a planned
3 mixture of land uses built in a prearranged relationship to
4 each other and having open space and community facilities in
5 common ownership.

6 (6) "Plat" means a graphical representation of a
7 subdivision showing the division of a tract or parcel of
8 land into lots, blocks, streets, and alleys, and other
9 divisions and dedications.

10 (7) "Preliminary plat" means a ~~neat--and~~ scaled
11 drawing of a proposed subdivision. ~~showing-the-layout-of~~
12 ~~streets, alleys, lots,--blocks,--and--other--elements--of--a~~
13 ~~subdivision--which-furnish-a-basis-for-review-by-a-governing~~
14 ~~body,--and-the~~ THE same shall be accompanied by any PROPOSED
15 covenants ~~that~~ TO run with the platted land AND OTHER
16 ELEMENTS OF THE PROPOSED SUBDIVISION REQUIRED TO FURNISH A
17 BASIS OF REVIEW BY THE GOVERNING BODY.

18 (8) "Final plat" means the final drawing of the
19 subdivision and dedication prepared for filing for record
20 with the county clerk and recorder and containing all
21 elements and requirements set forth in this act and in
22 regulations adopted pursuant thereto.

23 (9) "Registered land surveyor" means a person
24 licensed IN CONFORMANCE WITH THE MONTANA PROFESSIONAL
25 ENGINEERS' REGISTRATION ACT (SECTIONS 66-2301 THROUGH

1 66-2347) to practice surveying in the state of Montana.

2 (10) "REGISTERED PROFESSIONAL ENGINEER" MEANS A PERSON
3 LICENSED IN CONFORMANCE WITH THE MONTANA PROFESSIONAL
4 ENGINEERS' ACT (SECTIONS 66-2301 THROUGH 66-2347) TO
5 PRACTICE ENGINEERING IN THE STATE OF MONTANA.

6 ~~(10)~~ (11) "Subdivider" means any person who causes
7 land to be subdivided or who proposes a subdivision of land.

8 ~~(11)~~ (12) "Subdivision" means the division of land, or
9 land so divided, into two (2) or more parcels, WHETHER
10 CONTIGUOUS OR NOT, any of which is less than ~~forty-(40)~~ ten
11 (10) acres EXCLUSIVE OF PUBLIC ROADWAYS in size and cannot
12 be described ~~as-a-quarter-quarter-section-or-a-United-States~~
13 ~~government-let,~~ EXCEPT BY METES AND BOUNDS in order that the
14 title or possession of the parcels or any interest therein
15 may be sold, rented, leased, or otherwise conveyed either
16 immediately or in the future whether the division is made by
17 reference to a map or survey or by a metes-and-bounds
18 description of the parcels, and shall include any
19 resubdivision of land; provided further that a division of
20 land is a subdivision when the division creates a second or
21 any subsequent parcel for the purpose of sale, rent, lease,
22 or other conveyance from a tract of land held in single or
23 undivided ownership on July 1, 1973, where any of the
24 parcels segregated from the original tract is less than
25 ~~forty-(40)~~ TEN (10) acres EXCLUSIVE OF PUBLIC ROADWAYS in

size, and cannot be described ~~as-a-quarter-quarter-section~~
~~or-as-a-United-States-government-let~~ EXCEPT BY METES AND
BOUNDS; the plat of a subdivision so created shall show all
of the parcels SMALLER THAN TEN (10) ACRES IN SIZE
segregated from the original tract WHETHER CONTIGUOUS OR
NOT.

Section 4. (1) Except as provided herein, all
~~divisions--of-real-property~~ SUBDIVISIONS made after June 30,
1973, ~~into-lots,-tracts,-or-parcels-any--of--which--is--less~~
~~than--forty--(40)--acres-in-size-and-cannot-be-described-as-a~~
~~quarter-quarter-section-or-a-United-States--government--let,~~
~~or--into--tracts~~ OR DIVISIONS of land the boundaries or area
of which cannot be determined without a survey or
trigonometric calculation, must be surveyed by or under the
supervision of a registered surveyor; and a certificate of
survey thereof must be completed by the surveyor and filed
by him in the office of the county clerk and recorder of the
county in which the real property lies.

(2) Every subdivision of land after June 30, 1973,
shall be surveyed and platted in conformance with this act
by or under the supervision of a registered land surveyor.
Subdivision plats shall be prepared and filed in accordance
with this act and regulations adopted pursuant thereto.
Each subdivision plat must be accompanied by as complete a
survey of the section or sections in which the subdivision

is located as may be necessary to properly orient the
subdivision within such section or sections. All division
of sections into aliquot parts and retracement of lines must
conform to United States bureau of land management
instructions, and all public land survey corners shall be
filed in accordance with the Corner Recordation Act of
Montana (sections 67-2001 through 67-2019). ENGINEERING
PLANS, SPECIFICATIONS, REPORTS, AND SOILS AND GROUND WATER
INVESTIGATIONS REQUIRED IN CONNECTION WITH PUBLIC
IMPROVEMENTS AND OTHER ELEMENTS OF THE SUBDIVISION REQUIRED
BY THE GOVERNING BODY SHALL BE PREPARED AND FILED BY A
REGISTERED ENGINEER IN ACCORDANCE WITH THIS ACT AND
REGULATIONS ADOPTED PURSUANT THERETO.

(3) Instruments of transfer of land which is acquired
for state highways may refer by parcel and project number to
state highway plans which have been recorded in compliance
with section 32-2413, and are exempted from the surveying
and platting requirements of this act; provided, however,
that if such parcels are not shown on highway plans of
record, instruments of transfer of such parcels shall be
accompanied by and refer to appropriate certificates of
survey and plats when presented for recording.

(4) Unless the method of disposition is adopted for
the purpose of evading this act, the requirements of this
act shall not apply to any division of land:

(a) which is created by order of any court of record in this state or by operation of law, OR WHICH, IN THE ABSENCE OF AGREEMENT BETWEEN THE PARTIES TO THE SALE, COULD BE CREATED BY AN ORDER OF ANY COURT IN THIS STATE PURSUANT TO THE LAW OF EMINENT DOMAIN (SECTIONS 93-9901 THROUGH 93-9926);

(b) which is created by a lien, mortgage, or trust indenture;

(c) which creates an interest in oil, gas, minerals, or water which is now or hereafter severed from the surface ownership of real property;

(d) which creates cemetery lots;

(e) WHICH IS CREATED BY A RENTAL OR LEASE AGREEMENT FOR A TERM OF THREE (3) YEARS OR LESS.

(5) The department of intergovernmental relations shall, in conformance with the Montana Administrative Procedure Act (sections 82-4201 through 82-4225), prescribe uniform standards for monumentation and for the form, accuracy, and descriptive content of records of survey.

(6) It shall be the responsibility of the governing body to require the replacement of all monuments removed in the course of construction.

Section 5. (1) The governing body of every county, city, and town shall, before July 1, 1974, adopt and provide for the enforcement and administration of subdivision

regulations reasonably providing for the orderly development of their jurisdictional areas; for the coordination of roads within subdivided land with other roads, both existing and planned; for the dedication of land for roadways AND FOR PUBLIC UTILITY EASEMENTS; for the improvement of roads; for the provision of adequate open spaces for travel, light, air and recreation; for the provision of adequate transportation, water, drainage, and sanitary facilities; for the avoidance of congestion; and for the avoidance of subdivision which would involve inordinate environmental degradation or danger or injury to health, safety, or welfare by reason of natural hazard or the lack of water, drainage ACCESS, transportation or other public services or would necessitate an excessive expenditure of public funds for the supply of such services.

BEFORE THE GOVERNING BODY ADOPTS SUBDIVISION REGULATIONS PURSUANT TO THIS SECTION IT SHALL HOLD A PUBLIC HEARING THEREON AND SHALL GIVE PUBLIC NOTICE OF ITS INTENT TO ADOPT SUCH REGULATIONS AND OF THE PUBLIC HEARING BY PUBLICATION OF NOTICE OF THE TIME AND PLACE OF THE HEARING IN EACH NEWSPAPER PUBLISHED IN THE COUNTY NOT LESS THAN FIFTEEN (15) NOR MORE THAN THIRTY (30) DAYS PRIOR TO THE DATE OF THE HEARING.

(2) The department of intergovernmental relations shall, in conformance with the Montana Administrative

1 Procedure Act (sections 82-4201 through 82-4225), prescribe
 2 minimum administrative and review procedures to be contained
 3 in, and those subject areas which must be addressed by,
 4 subdivision regulations adopted pursuant to this act. The
 5 department shall provide for the review of preliminary plats
 6 by those agencies of state and local government AND AFFECTED
 7 PUBLIC UTILITIES having a substantial interest in proposed
 8 subdivision; provided, however, that such agency OR UTILITY
 9 review shall not delay the governing body's action on the
 10 plat beyond the time limit specified herein, and the failure
 11 of any agency to complete a review of a plat shall not be a
 12 basis for rejection of the plat by the governing body.

13 (3) Local subdivision regulations shall include
 14 procedures for the summary review and approval of
 15 subdivision plats containing five (5) or fewer parcels all
 16 of which front on an existing public road where no land in
 17 the subdivision will be dedicated to public use and which
 18 have been approved by the department of health and
 19 environmental sciences where such approval is required by
 20 sections 69-5001 through 69-5005; provided that reasonable
 21 local regulations may contain additional requirements for
 22 summary approval.

23 (4) SUBDIVISION REGULATIONS MAY AUTHORIZE THE
 24 GOVERNING BODY TO GRANT VARIANCES FROM THE REGULATIONS WHEN
 25 STRICT COMPLIANCE WILL RESULT IN UNDUE HARDSHIP AND WHEN IT

1 IS NOT ESSENTIAL TO THE PUBLIC WELFARE. ANY VARIANCE
 2 GRANTED PURSUANT TO THIS SUBSECTION MUST BE BASED ON
 3 SPECIFIC VARIANCE CRITERIA CONTAINED IN THE SUBDIVISION
 4 REGULATIONS.

5 ~~(4)~~ (5) Local regulations may provide that in lieu of
 6 the completion of the construction of any public
 7 improvements prior to the approval of a final plat, the
 8 governing body may accept a bond or other reasonable
 9 security, in an amount and with surety and conditions
 10 satisfactory to it, providing for and securing the
 11 construction and installation of such improvements within a
 12 period specified by the governing body and expressed in the
 13 bonds or other security.

14 Section 6. (1) A subdivision plat in which any lot
 15 is five (5) acres or less in size shall show that one-ninth
 16 (1/9) of the platted area, exclusive of all other
 17 dedications, is forever dedicated to the public for parks
 18 and playgrounds.

19 A subdivision plat in which all lots shown are greater
 20 than five (5) acres in size shall show that one-twelfth
 21 (1/12) of the platted area, exclusive of all other
 22 dedications, is forever dedicated to the public for parks
 23 and playgrounds. There shall be no requirement for
 24 dedication of parks and playgrounds when the subdivision
 25 plat show that all lots are greater than ten (10) acres in

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size. The governing body, in consultation with the planning board having jurisdiction, may determine suitable locations for such parks and playgrounds.

(2) Where, because of size, topography, shape, location, or other circumstances, the dedication of land for parks and playgrounds is undesirable, the governing body may, for good cause shown, make an order to be endorsed and certified on the plat accepting a cash donation in lieu of the dedication of land and equal to the fair market value of the amount of land that would have been dedicated. For the purpose of this section, the fair market value is the value of the unsubdivided, unimproved land. Such cash donation shall be paid into the park fund to be used for the purchase of additional lands or for the initial development of parks and playgrounds.

(3) If the proposed plat provides for a planned unit development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside therein, the governing body may issue an order waiving land dedication and cash donation requirements.

(4) If a tract of land is being developed under single ownership as a part of an overall plan, and part of the tract has been subdivided and sufficient park lands have been dedicated to the public from the area that has been

subdivided to meet the requirements of this section for the entire tract being developed, the governing body shall issue an order waiving the land dedication and cash donation requirements for the subsequently platted area.

(5) THE LOCAL GOVERNING BODY MAY WAIVE DEDICATION AND CASH DONATION REQUIREMENTS WHERE ALL OF THE PARCELS IN A SUBDIVISION ARE FIVE (5) ACRES OR MORE IN SIZE AND WHERE THE SUBDIVIDER ENTERS A COVENANT TO RUN WITH THE LAND AND REVOCABLE ONLY BY CONSENT OF THE GOVERNING BODY THAT THE PARCELS IN THE SUBDIVISION WILL NEVER BE SUBDIVIDED INTO PARCELS OF LESS THAN FIVE (5) ACRES AND THAT ALL PARCELS IN THE SUBDIVISION WILL BE USED FOR SINGLE FAMILY DWELLINGS.

Section 7. Where a subdivision platted under this act contains land to be dedicated to public use, the subdivider shall submit with the preliminary plat either:

(1) a certificate of a licensed title abstractor showing the names of the owners of record of the land to be dedicated and the names of lien holders or claimants of record against the land and the written consent to the dedication by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land; or

(2) title insurance guaranteeing the public's interest in the dedicated land in a reasonable amount to be determined by the governing body.

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1 Section 8. (1) Except where a plat is eligible for
 2 summary approval the subdivider shall present to the
 3 governing body, or the agent or agency designated thereby,
 4 the preliminary plat of the proposed subdivision for local
 5 review. When the proposed subdivision lies within the
 6 boundaries of an incorporated city or town, the preliminary
 7 plat shall be submitted to and approved by the city or town
 8 governing body. When the proposed subdivision is situated
 9 entirely in an unincorporated area the preliminary plat
 10 shall be submitted to and approved by the governing body of
 11 the county; however, if the proposed subdivision lies within
 12 one (1) mile of a third class city or town or within two (2)
 13 miles of a second class city or within three (3) miles of a
 14 first class city the county governing body shall submit the
 15 preliminary plat to the city or town governing body for
 16 review and comment. If the proposed subdivision lies partly
 17 within an incorporated city or town, the proposed plat
 18 thereof must be submitted to and approved by both the city
 19 or town and the county governing bodies. This section does
 20 not limit the authority of certain municipalities to
 21 regulate subdivisions beyond their corporate limits pursuant
 22 to section 11-3305.

23 (2) The governing body shall approve, conditionally
 24 approve, or reject the preliminary plat within forty-five
 25 (45) days of its presentation. The preliminary plat shall

1 show all pertinent features of the proposed subdivision and
 2 all proposed improvements. The governing body or its
 3 designated agent or agency shall review the preliminary plat
 4 to determine whether it conforms to the local master plan if
 5 one has been adopted pursuant to sections 11-3801 through
 6 11-3856 to the provisions of this act, and to rules and
 7 regulations prescribed or adopted pursuant to this act.

8 (3) The governing body or its authorized agent or
 9 agency shall hold a public hearing on the preliminary plat
 10 and shall consider all relevant evidence RELATING TO THE
 11 PUBLIC HEALTH, SAFETY AND WELFARE to determine whether the
 12 plat should be approved, conditionally approved, or
 13 disapproved by the governing body. NOTICE OF SUCH HEARING
 14 SHALL BE GIVEN BY PUBLICATION IN A NEWSPAPER PUBLISHED IN
 15 THE COUNTY NOT LESS THAN FIFTEEN (15) DAYS PRIOR TO THE DATE
 16 OF THE HEARING. When a hearing is held by an agent or agency
 17 designated by the governing body, the agent or agency shall
 18 act in an advisory capacity and recommend to the governing
 19 body the approval, conditional approval, or disapproval of
 20 the plat. This recommendation must be submitted to the
 21 governing body in writing not later than ten (10) days after
 22 the public hearing. If the governing body rejects or
 23 conditionally approves the preliminary plat, it shall
 24 forward one (1) copy of the plat to the subdivider
 25 accompanied by a letter over the appropriate signature

1 stating the reason for rejection or enumerating the
2 conditions which must be met to assure approval of the final
3 plat.

4 (4) Upon approving or conditionally approving a
5 preliminary plat, the governing body shall affix a dated and
6 signed statement of approval to the preliminary plat. The
7 governing body shall forward one (1) copy of the approval
8 statement to the subdivider. This approval shall be in
9 force for not more than one (1) calendar year; at the end of
10 this period the governing body may, at the request of the
11 subdivider, extend its approval for no more than one (1)
12 calendar year.

13 Section 9. (1) All final subdivision plats shall be
14 reviewed for errors and omissions in calculation or drafting
15 by an examining land surveyor. He shall ascertain that all
16 features, such as streets, drainage, and all other
17 improvements and facilities to be operated or maintained
18 with public funds, are essentially the same as those shown
19 on the approved preliminary plat; that the permanent control
20 monuments meet requirements prescribed pursuant to this act;
21 that all exterior boundaries and corners of the tract are
22 shown in sufficient detail so as to leave no doubt as to how
23 they were established; and that all monuments and references
24 marking exterior corners conform to standards of size and
25 position promulgated pursuant to this act. When the survey

1 data shown on the plat meet the conditions set forth by or
2 pursuant to this act, the examining land surveyor shall so
3 certify in a printed or stamped certificate on the plat;
4 such certificate shall be signed by him.

5 No land surveyor shall act as an examining land
6 surveyor in regard to a plat in which he has a financial or
7 personal interest OTHER THAN AS DRAFTSMAN OF THE PLAT.

8 (2) The governing body shall examine every final
9 subdivision plat and shall approve it for record when it
10 conforms to the conditions of approval set forth on the
11 preliminary plat. The clerk and recorder of the county
12 shall refuse to accept any plat for record that fails to
13 have such approval in proper form.

14 (3) Every final subdivision plat must be filed for
15 record with the county clerk and recorder before any
16 interest in the subdivided land can be sold, rented, leased,
17 or transferred in any manner or offered for sale, lease, or
18 transfer. If illegal transfers or offers of any manner are
19 made, the county attorney shall commence action to enjoin
20 further sales, transfers, or offers of sale or transfer and
21 compel compliance with all provisions of this act. The cost
22 of such action shall be imposed against the person
23 transferring or offering to transfer the property.

24 Section 10. The governing body may establish
25 reasonable fees to be paid by the subdivider to defray the

expense of reviewing subdivision plats.

Section 11. All covenants shall be considered to run with the land, whether marked or noted on the subdivision plat or contained in a separate instrument recorded with the plat.

Section 12. (1) Any plat prepared and recorded as herein provided may be vacated either in whole or in part as provided by sections 11-2801 and 11-2803, and upon such vacation the title to the streets and alleys of such vacated portions to the center thereof shall revert to the owners of the properties within the platted area adjacent to such vacated portions; provided however, that when any pole line, pipe line, or any other public or private facility that is located in a vacated street or alley at the time of the reversion of the title thereto, the owner of said public or private utility facility shall have an easement over the vacated land to continue the operation and maintenance of the public utility facility.

(2) ALL PLATS AND OTHER TITLE RECORDS WHICH WERE RECORDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT IN ACCORDANCE WITH THE LAW IN FORCE AT THE TIME OF RECORDING AND WHICH HAVE NOT BEEN SUBSEQUENTLY VACATED ARE HEREBY VALIDATED, NOTWITHSTANDING IRREGULARITIES, AND HAVE THE SAME LEGAL STATUS AS PLATS RECORDED UNDER THE PROVISIONS OF THIS ACT.

(3) THE RECORDING OF ANY PLAT MADE IN COMPLIANCE WITH THE PROVISIONS OF THIS ACT SHALL SERVE TO ESTABLISH THE IDENTITY OF ALL LANDS SHOWN ON AND BEING A PART OF SUCH PLAT. WHERE LANDS ARE CONVEYED BY REFERENCE TO A PLAT, THE PLAT ITSELF OR ANY COPY OF THE PLAT PROPERLY CERTIFIED BY THE COUNTY CLERK AND RECORDER AS BEING A TRUE COPY THEREOF, SHALL BE REGARDED AS INCORPORATED INTO THE INSTRUMENT OF CONVEYANCE AND SHALL BE RECEIVED IN EVIDENCE IN ALL COURTS OF THIS STATE.

Section 13. Every donation or grant to the public, or to any person, society, or corporation, marked or noted on a plat is to be considered a grant to the donee.

Section 14. (1) Within one hundred eighty (180) days of the completion of a survey the registered land surveyor responsible for the survey, whether he is privately or publicly employed, shall prepare and file for record a certificate of survey in the county in which the survey was made if the survey:

(a) provides material evidence not appearing on any map filed with the county clerk and recorder or contained in the records of the United States bureau of land management;

(b) reveals a material discrepancy in such map;

(c) discloses evidence to suggest alternate locations of lines or points;

(d) establishes one or more lines not shown on a

1 recorded map the positions of which are not ascertainable
2 from an inspection of such map without trigonometric
3 calculations.

4 (2) A certificate of survey will not be required for
5 any survey which is made by the United States bureau of land
6 management or which is preliminary or which will become part
7 of a subdivision plat being prepared for recording under the
8 provisions of this act.

9 (3) Certificates of survey shall be legibly drawn,
10 printed, or reproduced by a process guaranteeing a permanent
11 record and shall conform to monumentation and surveying
12 requirements promulgated under this act.

13 Section 15. The county clerk and recorder shall
14 maintain an index of all recorded subdivision plats and
15 certificates of survey. This index shall list plats and
16 certificates of survey by the quarter section, section,
17 township, and range in which the platted or surveyed land
18 lies and shall list the recording or filing numbers of all
19 plats depicting lands lying within each quarter section.
20 Each quarter section list shall be definitive to the
21 exclusion of all other quarter sections. The index shall
22 also list the names of all subdivision plats in alphabetical
23 order and the place where filed.

24 Section 16. When a recorded plat does not definitely
25 show the location or size of lots or blocks, or the location

1 or width of any street or alley, the governing body may AT
2 ITS OWN EXPENSE ~~require~~ CAUSE a new and correct survey and
3 plat to be made and recorded in the office of the county
4 clerk. The corrected plat must, to the extent possible,
5 follow the plan of the original survey and plat. The
6 surveyor making the resurvey shall endorse the corrected
7 plat referring to the original plat and noting the defect
8 existing therein and the corrections made.

9 Section 17. Every registered land surveyor may
10 administer and certify oaths:

11 (1) when it becomes necessary to take testimony for
12 the identification of old corners or reestablishment of lost
13 or obliterated corners;

14 (2) when a corner or monument is found in a
15 deteriorating condition and it is desirable that evidence
16 concerning it be perpetuated;

17 (3) when the importance of the survey makes it
18 desirable to administer an oath to his assistants for the
19 faithful performance of their duty.

20 A record of oaths shall be preserved as part of the
21 field notes of the survey, and noted on the certificate of
22 survey filed under this section.

23 Section 18. Any person who violates any provision of
24 this act or any local regulations adopted pursuant thereto
25 shall be guilty of a misdemeanor and punishable by a fine of

53

1 not less than one hundred dollars (\$100) or more than five
2 hundred dollars (\$500) or by imprisonment in a county jail
3 for not more than three (3) months, or by both fine and
4 imprisonment. Each sale, lease or transfer, or offer for
5 sale, lease, or transfer of each separate parcel of land in
6 violation of any provision of this act or any local
7 regulation adopted pursuant thereto shall be deemed a
8 separate and distinct offense.

9 Section 19. If any provision of this act or its
10 application to any person or circumstances is held invalid,
11 the remainder of the act or the application of the provision
12 to other persons or circumstances is not affected.

13 Section 20. Sections 11-601 through 11-616, 11-3843
14 through 11-3848, and 11-3851, R. C. M. 1947, are repealed.

-End-

54

MONTANA SENATE

REGULAR SESSION

ROLL CALL

1973 LEGISLATURE

NOTE #1

YEAS	N-V	NAYS
Aber	(D)	
Bennett	(R)	
Bertsche	(D)	
Bollinger	(D)	
Boylan	(D)	
Breeden	(R)	
Broeder	(R)	
Carl	(R)	
Cochrane	(R)	
Darrow	(R)	
Deschamps	(R)	
Devine	(D)	
DeWolf	(D)	
Drake	<i>lf</i> (R)	

YEAS	N-V	NAYS
Flynn	(D)	
Gilfeather	(D)	
Goodheart	(D)	
Graham	(D)	
Groff	(D)	
Hall	(D)	
Harrison	(R)	
Hazelbaker	(R)	
Himsl	(R)	
James	(D)	
Jensen	(D)	
Keenan	(D)	
Klindt	(R)	
Lowe	(R)	

YEAS	N-V	NAYS
Lynch	(D)	
Manning	(D)	
Mathers	(R)	
McCallum	(R)	
McDonald	(D)	
McGowan	(D)	
McKeon	(D)	
McNamer	(R)	
McOmber	(D)	
Moore	(R)	
Moritz	(R)	
Nees	(D)	
Northey	(R)	
Rosell	(R)	

YEAS	N-V	NAYS
Shea	(D)	
Siderius	(D)	
Sorensen	(D)	
Story	(R)	
Thiessen	(D)	
Turnage	(R)	
Vainio	(D)	
Zody	(D)	
Mr. President		

SB 208 3rd reg

Ayes 44 Noes 1 Exc 1 Abs 4

44 TOTALS *1*

SEN BILL NUMBER *208*

YEAS	N-V	NAYS
100-200	100-200	100-200
0	0	0
1	1	1
2	2	2
3	3	3
4	4	4
5	5	5
6	6	6
7	7	7
8	8	8
9	9	9

HOUSE	BILL
SENATE	RESO.
1000	100
2000	200
3000	300
4000	400
Jnt.	500
Conc.	600
Emer.	700
3rd R	800
Quo.	900
MOT	000

DATE	
Jan.	2
Feb.	3
Mar.	1
Apr.	2
May	3
June	4
July	5
Aug.	6
Sept.	7
Oct.	8
Nov.	9
Dec.	0

MONTANA SENATE

REGULAR SESSION

ROLL CALL

1973 LEGISLATURE

NOTE # 2

YEAS	N-V	NAYS
Aber	(D)	
Bennett	(R)	
Bertsche	(D)	
Bollinger	(D)	
Boylan	(D)	
Breeden	(R)	
Broeder	(R)	
Carl	(R)	
Cochrane	(R)	
Darrow	(R)	
Deschamps	(R)	
Devine	(D)	
DeWolf	(D)	
Drake	<i>14</i> (R)	

YEAS	N-V	NAYS
Flynn	(D)	
Gilfeather	(D)	
Goodheart	<i>14</i> (D)	
Graham	(D)	
Groff	(D)	
Hall	(D)	
Harrison	(R)	
Hazelbaker	(R)	
Himsl	(R)	
James	(D)	
Jensen	(D)	
Keenan	(D)	
Klindt	(R)	
Lowe	(R)	

YEAS	N-V	NAYS
Lynch	(D)	
Manning	<i>14</i> (D)	
Mathers	(R)	
McCallum	(R)	
McDonald	(D)	
McGowan	(D)	
McKeon	(D)	
McNamer	(R)	
McOmber	(D)	
Moore	(R)	
Moritz	(R)	
Nees	(D)	
Northey	(R)	
Rosell	(R)	

YEAS	N-V	NAYS
Shea	(D)	
Siderius	(D)	
Sorensen	(D)	
Story	(R)	
Thiessen	(D)	
Turnage	(R)	
Vainio	(D)	
Zody	<i>14</i> (D)	

Mr. President

Mar. 10 - Senate rejects House amendments.
Conf. Comm. appt.

Mar. 12 + 14 - Conf. Comm. dissolved and new committees appointed.

CC NASB 208 3rd rdg

Agree 42 Oppose 2 Abs 2 Ex 4

4/2 TOTALS 2 Conf. Comm. HASSENBILL NUMBER 208

YEAS	N-V	NAYS
100-200	100-200	100-200
0	0	0
1	1	1
2	2	2
3	3	3
4	4	4
5	5	5
6	6	6
7	7	7
8	8	8
9	9	9

YEAS	N-V	NAYS
100-200	100-200	100-200
0	0	0
1	1	1
2	2	2
3	3	3
4	4	4
5	5	5
6	6	6
7	7	7
8	8	8
9	9	9

YEAS	N-V	NAYS
100-200	100-200	100-200
0	0	0
1	1	1
2	2	2
3	3	3
4	4	4
5	5	5
6	6	6
7	7	7
8	8	8
9	9	9

HOUSE	SENATE
1000	100
2000	200
3000	300
4000	400
Jnt.	500
Conc.	600
Emer.	700
3rd R	800
Quo.	900
MOT	000

BILL	RESO.
10	1
20	2
30	3
40	4
50	5
60	6
70	7
80	8
90	9
00	0

DATE	
Jan.	2
Feb.	3
Mar.	1
Apr.	2
May	3
June	4
July	5
Aug.	6
Sept.	7
Oct.	8
Nov.	9
Dec.	0

House Bill 208-20873 - Not Referred to Committee - Vol. 77230

MONTANA SENATE

REGULAR SESSION

ROLL CALL

1973 LEGISLATURE

YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS
Aber		(D)	Flynn		(D)	Lynch		(D)	Shea		(D)
Bennett		(R)	Gilfeather		(D)	Manning		(D)	Siderius		(D)
Bertsche		(D)	Goodheart		(D)	Mathers		(R)	Sorensen		(D)
Rollinger		(D)	Graham		(D)	McCallum		(R)	Story		(R)
Boylan		(D)	Groff		(D)	McDonald		(D)	Thiessen		(D)
Breeden		(R)	Hall		(D)	McGowan		(D)	Turnage		(R)
Broeder		(R)	Harrison		(R)	McKeon		(D)	Vainio		(D)
Carl		(R)	Hazelbaker		(R)	McNamer		(R)	Zody		(D)
Cochrane		(R)	Hinsl		(R)	McOmber		(D)			
Darrow		(R)	James		(D)	Moore		(R)	Mr. President		
Deschamps		(R)	Jensen		(D)	Moritz		(R)			
Devine		(D)	Keenan		(D)	Nees		(D)			
DeWolf		(D)	Klindt		(R)	Northey		(R)			
Drake		(R)	Lowe		(R)	Rosell		(R)			

SB 208
Content of Title - Comm of Urho
Aug 13
Nov 34
Eve 2
Abel

YEAS	N-V	NAYS	HOUSE	BILL	DATE
100-200	100-200	100-200	SENATE	RESO.	
0	0	0	1000	100	Jan. 2
1	1	1	2000	200	Feb. 3
2	2	2	3000	300	Mar. 1
3	3	3	4000	400	Apr. 2
4	4	4	500	500	May 3
5	5	5	600	600	June 4
6	6	6	700	700	July 5
7	7	7	800	800	Aug. 6
8	8	8	900	900	Sept. 7
9	9	9	000	000	Oct. 8
					Nov. 9
					Dec. 0

Excused: Drake. Total 1.

Senate Bill No. 381, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Breeden, Broeder, Carl, Cochran, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Keenan, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Mortz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 48.

Noes: None.

Absent and not voting: Boylan. Total 1.

Excused: Drake. Total 1.

Senate Bill No. 417, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Breeden, Broeder, Carl, Cochran, Darrow, Deschamps, Devine, Flynn, Gilfeather, Goodheart, Graham, Hall, Harrison, Hazelbaker, Himsl, James, Jensen, Keenan, Klindt, Lowe, Manning, Mathers, McCallum, McDonald, McGowan, McKeon, McNamer, McOmber, Moore, Mortz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Zody. Total 43.

Noes: DeWolfe, Groff, Lynch, Turnage, Vainio. Total 5.

Absent and not voting: Boylan. Total 1.

Excused: Drake. Total 1.

Senate Joint Resolution No. 35, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Breeden, Broeder, Carl, Cochran, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Harrison, Hazelbaker, Himsl, James, Jensen, Keenan, Klindt, Lowe, Lynch, Mathers, McCallum, McDonald, McGowan, McKeon, McOmber, Moore, Mortz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 45.

Noes: McNamer. Total 1.

Absent and not voting: Boylan, Hall, Manning. Total 3.

Excused: Drake. Total 1.

Senate Bill No. 208, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Bennett, Bertsche, Bollinger, Breeden, Broeder, Carl, Cochran, Darrow, Deschamps, Devine, DeWolfe, Flynn, Gilfeather, Goodheart, Graham, Groff, Hall, Hazelbaker, Himsl, James, Jensen, Klindt, Lowe, Lynch, Manning, Mathers, McCallum, McGowan, McKeon, McOmber, Moore, Mortz, Nees, Northey, Rosell, Shea, Siderius, Sorenson, Story, Thiessen, Turnage, Vainio, Zody. Total 44.

Noes: McNamer. Total 1.

Absent and not voting: Boylan, Harrison, Keenan, McDonald. Total 4.

Excused: Drake. Total 1.

Senate Bill No. 339, having been read three several times, was passed by the following roll call vote:

1973

NATURAL RESOURCES COMMITTEE Page 7

43rd Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
SB 426	All state agencies to give assistance to tribal councils on matters relating to coal dev. on Indian lands.	Feb. 16	Feb. 22		Feb. 22	BE CONCURRED IN AS AMENDED	
SB 443	The open cut sand and gravel mining act	Feb. 16	Feb. 24	March 6--returned to include bentonite	Feb. 24 Mar. 6	BE CONCURRED IN AS AMENDED " "	
SB 445	Flood frequency--from 50 to a 100 year frequency--agreements to acquire flood data.	Feb. 20	Feb. 24		Mar. 1	BE CONCURRED IN	
SB 444	Montana water use act	Feb. 20	Feb. 27 7 p.m.		Mar. 6	BE CONCURRED IN AS AMENDED	
SB 208	Montana subdivision and platting act.	Feb. 20	Feb. 27		Mar. 3	BE CONCURRED IN AS AMENDED	
SB 300	State antiquities act	Feb. 27		Re-referred to State Administration	Mar. 3		
HR 21	Requesting the Congress to provide funds for a study of Judith River	Feb. 28	Mar. 1		Mar 1	BE ADOPTED	BE ADOPTED

ROLL CALL

NATURAL RESOURCES

COMMITTEE

43 rd LEGISLATIVE SESSION 1973

[illegible]

Tuesday, February 27, 1973

Chairman Sheldon opened the meeting of the Natural Resources Committee at 10:30 a.m. in room 405.

A motion was made to pass SB 445 to Thursday. Motion carried.

Chairman Sheldon opened the meeting to a hearing on SB 208.

SENATE BILL 208:

Senator Turnage, the chief sponsor, said there had been controversy between this subdivision bill and the one from the House, HB 341. He stated that SB 208 is the administration's choice. He asked that the committee not recommend amendments that will destroy the working part of the bill.

Hal Price, State Planning Board, stated that when we are talking of the magnitude of subdivision development to remember that there are good and bad subdivisions. SB 208 is designed to deal with problems that result from poor subdivisions.

Rick Mayfield, Bozeman City-County Planning Board, was the next speaker. He stated he would like to see the bill amended to include a definition of subdivision as 40 acres instead of the proposed 10 acres. Mr. Mayfield used graphic material hung on the wall to demonstrate how the Ponderosa Pine ranch in Gallatin County is being subdivided with no regard to anything. He stated they have an office where they are selling lots in Honolulu, Hawaii. He shared the letter with the committee from a friend who had contacted that office and asked about the Montana property. The information dispensed was not all factual. Mr. Mayfield, also, had graphic illustrations of how land is subdivided with no concern for roads or drainage. He said this was typical of the type of thing going on in Gallatin County. He asked that they be given the power to get a proper road design and water drainage.

Senator McKeon, the next speaker, stated he was here to propose amendments to SB 208. He stated SB 208 is truly a reclamation bill for the western part of Montana, providing for its orderly and systematic development; and as much needed as orderly development of coal is needed in the eastern part of the state.

Senator Turnage stated that to help the county commissioners in adopting and administering subdivision regulations the Montana Department of Planning and Economic Development had prepared a local planning series publication on "Subdivisions". A copy of this was left with the committee secretary.

Senator Turnage stated that he felt the real question in the size of the subdivision is density and he felt it should be ten acres as it is now in the bill. He, also, stated this is a planning bill. He said it is designed to give some control in subdividing. He said it requires a public hearing and he felt the county commissioners are entitled to this protection. He stated that the bill is reasonable, balanced, and it will work.

Don Kinney, Montana Association of Professional Planners, was the next speaker. He stated that most of their group supported this bill, but were concerned about the ten acres--would rather have it 40 acres.

Pat Hook, Montana Association of Real Estate Boards, was the next speaker and said they supported the bill.

Craig Winterburn, a rancher, was the next speaker. He felt that parcels less than 40 acres should be subject to local review, as anything less than that is detrimental to the agricultural community--because of poorly planned roads, lack of consideration to rural schools, and poorly placed densities. He asked that an amendment be added which clearly states that land changes between farmers for the purpose of fence changes, etc., would not be subject to the provisions of the bill.

Jean Anderson, League of Women Voters, was next and her written testimony is exhibit 1.

Fred Caruso, Montana Construction Industries Council, was next. His written testimony is exhibit 2.

R. David Schurian, a registered surveyor and land use planner, was the next speaker. His written testimony is exhibit 2; and he, also, passed around a photographic overlay showing inaccessible parcels and improper land uses. This is exhibit 4.

Milton L. Smith, Montana Society of Engineers, stated that his group supports SB 208 as amended.

John Morrison, Jr., Montana Section, American Society Civil Engineers, stated that his group supports SB 208 as amended.

Calvin T. Christian stated that he supports SB 208 in its present form as dealing with under ten acre tracts.

Clyde Tompkins was the next speaker supporting SB 208.

Don Douglas, Montana Highway Department, passed out copies of an amendment which they would like included in the bill. This amendment requests that transfer of land which is acquired for state highways or which has been acquired for such purposes and is in excess of highway requirements be exempt from the surveying and platting requirements of the act. This amendment is exhibit 5.

Senator Turnage said he would have no objection to the highway amendment. He did, however, object to Senator McKeon's amendments. He said they were the same ones turned down in the Senate.

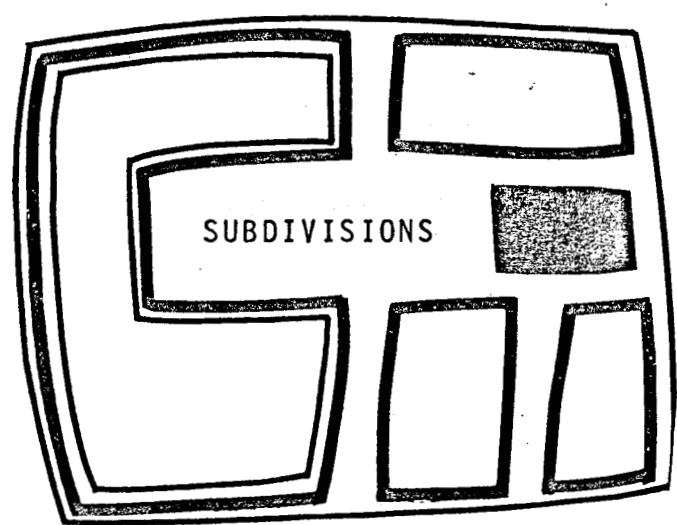
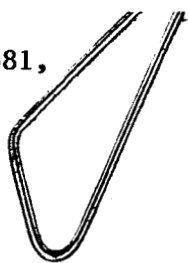
Jack Iman, Montana State Grange, presented written testimony which is exhibit 6.

Questions were asked by the committee.

CONTACT MONTANA HISTORICAL SOCIETY, 444-2681,
FOR ACCESS TO THIS.

Senator Turnage^s

Montana
Planning
Series



removed from
S 17

RS 18, 5-7

Montana Department of Planning and Economic Development

Fall 1972

Capitol Station, Helena

241

WITNESS STATEMENT

Name Jean Anderson Date 2/27/73
Address 3220 County Club Circle, Billings Support ? 208
Representing League of Women Voters Oppose ? _____
Which Bill ? _____ Amend ? _____
Comments:

Please leave prepared statement with the committee secretary.

Testimony for SB 208

43rd Legislative Assembly

Prepared by the League of Women Voters

The League of Women Voters of Montana has put a great deal of time and thought over the past ten years into the problems of local governments; community growth, provision of services, and equity in tax payments for these services. These problems are all interrelated and no one bill answers them all, although it may in some ways affect all of them. We have also had - starting somewhat ahead of what is now almost a tidal wave - environmental concerns.

We support subdivision legislation which will regulate and guide the development of Montana land. Our concerns are for the environment AND for the people.

The proliferation of poorly planned - or unplanned - subdivisions which lack proper facilities; such as roads, provisions for water and sewage disposal, which spring up with no regard for the governmental services the people who will live in them will need; such as schools and fire and police protection, or which may be built in inappropriate places, such as prime agricultural land or on steep slopes, detract from the general environment, cost the existing governmental entities money, and are little pleasure for those who live in them. Our concern is to achieve orderly community growth, to enable governmental services to be economically and efficiently supplied, and to see that those who use them or benefit from them pay for them on an equitable basis.

While we supported SB 208 in its original form, some of the amendments seem especially destructive. In particular the definition (Sect 3, PPl2) of a subdivision. The change from 40 to 10 acres is bad enough, but it only returns it to the size prescribed by the present law. The added wording "except by metes and bounds" would mean that the parcels could, in some instances, be as small as 2½ acres. An ~~the~~ plat of the subdivision so defined would only have to show the divisions of less than 10 acres. This definition will make the act meaningless in many cases---For instance the large and somewhat questionable subdivision called Ponderosa Pines in Gallatin County.

There are parts of the bill which we particularly approve of. One is the opportunity for public hearings both for the standards to be prescribed by the dept of Intergovernmental Relations, under the Montana Administrative Procedures Act and the subdivision regulations drawn up by the local governing body and before the approval of individual plats. Another is the requirement of systematic record keeping in each county. And ~~after~~ ^{another} is the provision for planned unit development.

We ask that this committee make SB 208 a meaningful subdivision bill by correcting the definition. And that you will then give it a "do pass" recommendation.

Jean

Ex 1

In many cases the local govt is last to know & first to incur long-range expenses of development. Many recreational subdivisions lost the view that attracts people.

Feb. 27, 1973

Ex. 2

Mr. Chairman, members of the Committee: My name is FRED CARUSO and I am representing the Montana Construction Industries Council in support of S.B. 208.

The Montana Construction Industries Council is an organization comprised of two directors from each of the following associations:

- ...The Montana Contractor's Association
- ...Montana Chapter--National Electrical Contractor's Association
- ...Montana Home Builder's Association
- ...Home Builder's Association of Billings
- ...Billings Associated Plumbing-Heating-Cooling Contractors
- ...Billings Contractor's Council
- ...Bozeman Industry Advancement Committee
- ...Montana Consulting Engineers Council
- ...Helena Contractors Council
- ...Montana Ready Mix & Concrete Products Association
- ...Billings Builders Exchange
- ...Montana Building Material Dealers Association
- ...Associated Plumbing & Heating Contractors of Montana
- ...Montana Chapter of the American Institute of Architects
- ...Butte Contractor's Council
- ...Home Builder's Association of Great Falls

The Montana Construction Industries Council SUPPORTS S.B. 208, The Montana Subdivision and Platting Act, sponsored by Senator Jean Turnage.

Although stricter subdivision requirements necessarily increase the costs of the land to the consumer, we feel that S.B. 208 is a measure which provides protection to the consumer by helping to protect his land values by setting high standards for subdivision around his property. This bill provides protection also for the long-term local developer-contractor.

We feel that the requirements set forth in S.B. 208 are strict enough to protect Montana's out-lying areas from careless and thoughtless subdivision by profiteers, but realistic enough to permit the steady, continued growth of the construction industry which is so important to the economy and growth of Montana.

We feel further that S.B. 208 provides an important element of local participation and control which other bills fail to provide. Conditions and building requirements vary from area to area. What is good for the Kalispell region may not be good for the Helena Valley. This bill provides an opportunity for local citizens to take local conditions into account--to make special exceptions or demand extra requirements. At the same time S.B. 208 provides for an important element of guidance and supervisory control at the state level.

We urge you to recommend the adoption of S.B. 208.

/s/FRED CARUSO
Legislative Coordinator
Montana Construction Industries Council

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Ex. 3

WITNESS STATEMENT

Name R. David Schurman Date 2-27-73
Address RT 1 Box 126A Support ? ☒
Representing _____ Oppose ? _____
Which Bill ? SB 208 Amend ? _____

Comments:

I support SB 208 in the original form

Please leave prepared statement with the committee secretary.



E-3

R. DAVID SCHURIAN
REG. LAND SURVEYOR MONTANA IDAHO
RT.1 BOX 126A VICTOR, MONTANA 59875
PHONE 406-642-3226



MEMBER

MEMBER

A STATEMENT FOR S B 208 PRIOR TO AMENDMENT

10 acres verses 40, or should we say more than 10.

In a brief period I will try to cover this subject from two basic aspects; orderly development (planning) and financial.

Why should we interest ourselves with pieces over 10 acres? 10 acres is 660 feet square. When land is broken and sold, it is too late for any planning on a scale larger than the pieces sold. In mountainous country, selling by aliquott parts of a section (NE 1/4 NE 1/4 SE 1/4) creates problems beyond belief. In almost every instance, roads to adjoining parcels must run through portions of others land. No one wants their land cut in two by a road. Choice building sites are cut in two by property lines, people not knowing the whereabouts of their real property corners, build over the line, and, perhaps most of all, the natural contours of the land are neglected. Those natural gullies, ridges, tree lines ect. that give a man seclusion from his neighbor and seclusion from the entire area.

From my point of view, those selling land, in many cases, will sell just outside of the existing laws and regulations, thus, but setting the limit low, lawmakers set the standard for the size of many pieces.

When land is not properly subdivided, platted and filed, there is no way for planning boards to advise county commissioners that adequate restrictive covenants exist to protect wildlife use, adequate open space, give a realistic approach to domestic and municipal problems, and a guarantee of the preservation of irreplaceable esthetic resources. County government has no way of knowing land has been divided and undertaken a use change and thus badly needed revenue is lost for years.

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I will leave an oblique aerial photo with the committee, showing an aliquott part division and more practical methods. Of course, not to scale, but a crude display of principle.

Would not the mandatory subdivision of all parcels under 40 acres create a financial hardship on developers? As with any product, costs of operation should be passed on to the consumer, so should the cost of surveying and planning. It is really the only fair way of locating property boundaries. As an example, a man divides 160 acres into aliquott part 10 acre pieces. In reasonable terrain, without a problem of missing government corners and assuming the section had not been previously subdivided, one might expect to pay, in the neighborhood of \$3200 or \$20/acres for the setting of these corners.

If unsurveyed and sold by aliquott parts, at some time in the future, one of the 10 acres purchasers is going to need a survey. Because of the procedures used to determine aliquott part boundaries (as prescribed by the Bureau of Land Management) the owner of the 10 acre piece will pay perhaps \$2200 dollars for the survey of his 10 acre piece of \$220/acre. Those who follow in the section, assuming, one at a time, will pay at least \$300 each for the corners of their 10 acre piece. Obviously, sale of unsurveyed land is a favor to no one.

For a slightly larger investment, the developer can have an attractive, planned, surveyed and approved development made of record.

In summary, the way S.B. 208 reads now, developers may create aliquott part descriptions as small as they choose, even to 1 1/4 acre parcels, without survey--God forbid. The law on the books now, if enforced, is far better than that. For better control, review, and continuity of planning and development, I strongly suggest that the original wording be used and that the Legislature settle on as large an acreage as possible.

Respectfully submitted by,

R. David Schurian

R. David Schurian

**Exhibit 4
SB 208
2-27-1973**

A black and white enlarged photograph

R. David Schurian

**“A Typical Aliquott Part Davison Showing Inaccessible
Parcels & Improper Land Use Usually Not Surveyed**

&

**A Typical Planned Subdivision Showing Proper Use of
Roads & Contours”**

**Contact the Montana Historical Society
444-2681**

For access to this exhibit

Don Douglas
Amendment
Ex. 5

Page 5 line 20 through Page 6 line 3

Amend to read as follows:

(3) Instruments of transfer of land which is acquired for state highways or which has been acquired for such purposes and is in excess of highway requirements may refer by parcel and project number to state highway plans which have been recorded in compliance with section 32-2413, and are exempted from the surveying and platting requirements of this act; provided, however, that if such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording.

Ex. 6

To: Chairman William Bertsche and the Committee Members of the Senate Committee on Natural Resources.

RE: Senate Bill 208 on Subdivision Regulations.

Testamony on behalf of the Montana State Grange by Jack Iman

Gentlemen:

I live on a 580 acre ranch four miles north of Hamilton in Ravalli County. The members of the Grange are, for the most part, rural residents of Western Montana. The rapid increase of unplanned and un-controlled sub-divisions in Western Montana has been of real concern to all of us, threatening many with polluted water or other environmental degradation. The State Session, in establishing policy in 1972 and 1971 asked for, "Standarization in existing and new legislation on definitions and acerage limits of subdivisions, and Amendment of existing subdivision laws to require developers, rather than purchasers to submit information on water supply and sewage disposal."

We are convinced that to lower the size of the subdivision required to conform to established regulations to less than 40 acres will only contribute further to the already undesirable development of poorly planned areas in our counties. We urgently request that your Committee reject any Bill or amendments to a Bill that would do so,

We strongly favor that no developer be allowed to subdivide land into less than 40 acre plots without being required to meet regulations that will protect the health and the environmental quality of both owners adjacent areas and prospective owners within the subdivision.

Respectfully - Submitted.
/s/ Jack Iman
Jack Iman

The original copy was mailed to Senator William Bertsche, but was intended for Chairman Arthur H. Sholden and the Agriculture Legislative Association Office has made these copies to be distributed to the Natural Resources Committee.

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WITNESS STATEMENT

Name WINTERBURN CRAIG Date 2-27-73
 Address 4385 WYLLIE DR. Support ? X
 Representing MYSELF AS A RANCHER Oppose ?
 Which Bill ? S-208 Amend ? X

Comments:

L & C Planning
Board Member

Subdivisions - involving parcels less than 40 acres should be subject to local review. Anything less than 40 acres would be detrimental to the agricultural community, because of poorly planned roads, lack of consideration to real schools, poor placed densities.

I would like to an amendment that clearly states that land changes between ranches & farmers for the purpose of fence changes etc would not be subject to the provisions of this bill. We would

Please leave prepared statement with the committee secretary.

submit if committee so wishes

WITNESS STATEMENT

Name RICK MAYFIELD Date 2-27-73
Address Bozeman Support ?
Representing Bozeman City-County Planning Board Oppose ?
Which Bill ? SB 208 Amend ?

Comments:

I support this bill with amendments.
I would like to have the bill amended
to include a definition of subdivision
~~for~~ at 40 acres instead of the
proposed 10 acres.

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Milton L. Smith Date 2-27-73
Address 2225 11th Ave Helena, Mont. Support ? 208
Representing Mont. Society Engrs. Oppose ? _____
Which Bill ? S.B. 208 Amend ? _____

Comments:

*The Montana Society of Engineers supports S.B. 208
has amended.*

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name John Morrison Jr. Date 2/27/73
Address 910 Helena Ave. Helena, Montana Support ? ☒
Representing Mont. Section - American Soc. Civil Engrs Oppose ? ☐
Which Bill ? SB 208 Amend ? ☐

Comments:

*The American Society of Civil Engineers supports
~~the~~ SB 208 as amended.*

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Calvin T. Christian Date 2-27
Address POISON, MONTANA Support ? X
Representing SELF. Oppose ?
Which Bill ? SB 208 Amend ?

Comments:

Support in its present form dealing with
under 10 acre tract.

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name David G. Crow, Planning Director Date 2-27-73
Address City Hall 701 W Spruce, Missoula MT 59801 Support ? X
Representing Missoula City-County Planning Board Oppose ?
Which Bill ? Senate Bill 208 Amend ? X

Comments:

*I strongly support this bill with amendments; especially
one to redefine a subdivision as any
division of land into two or more parcels
of 40 acres or less.*

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name JAMES S CHRISTIAN Date 2/27
 Address Pahon Support ? ☒
 Representing Self - Landowner Realtor Oppose ? ☐
 Which Bill ? 208 Amend ? ☐

Comments:

I support Senate Bill 208 in its
 Present form with the complication of
 Subdivision limited to under 10 Acres

= I would support an amendment
 or separate law to prosecute land
 abuse to any limit of acreage.



Please leave prepared statement with the committee secretary.

Natural Resources Visitors Register

Feb. 27

S.B 208

Name	Representing		Support	Oppose
Pat Hoelke	Assn. Real Estate Brokers		✓	
Don Douglas & Bob Champion	Dept of Highways	Informant		
Don L. Kinney	Mont. Assoc of Exp. Planners		✓	
David Brown	Missoula City County Planning Bd	with M. W. H. of 3rd floor	✓	
Calvin I. Christman	Self		✓	
Blyde Thompson	Self		✓	
Fletcher Newby	Environ. Qual. Council		✓	
Giggy Wintford	Myself and Associates		✓	
Gordon Buckland	Mont. Assoc. Realtors		✓	
Gene Donaldson	Mont. Bld. Bd.		✓	
Neil Newnack				
Rita Brauner				
A. W. Colarson	Rept. Health & ES		✓	
Mart Southern	Great Falls High Sch.			
Mrs. Phyllis Hemsted	City of Great Falls Planning Dept	Informant	✓	
John Hemsted	West Jr. High			
Mike Reane	Great Falls	Informant		
O. M. McLeod	Bozeman Bureau NW	Informant		
Wesley W. Stevens	Bozeman Community League of Women Voters	Informant	✓	
Jean Anderson	Self		✓	
James S. Chubb	State Planning		✓	
Richard M. Wiedelke	Myself as a			
James B. Spriggs - Billings	Bozeman Planning Board		✓	
Rick Mayfield	Bozeman Planning Board		✓	
Ralph Armstrong	Bozeman Planning Board		✓	
John Morrison Jr.	Mont. Section American Society of Civil Engrs.		✓	
Milton L. Smith	Mont. Soc. of Engrs		✓	
Hal Price	State Planning		✓	
R. David Schurizer	my clients & community as a Lead Surveyor & Planner		✓	
A. AINSWORTH	Myself as a Land Surveyor		✓	
John Cooper	Bozeman Planning Board		✓	

WITH AMENDED

Thursday, March 1, 1973

The Natural Resources Committee met at 10:35 a.m. in room 405 with Chairman Sheldon presiding.

Chairman Sheldon opened the meeting to a consideration of SB 445.

SENATE BILL 445:

Rep. Harper moved that SB 445 be concurred in.

There was much discussion by the committee members on the bill--many questions were asked of Gary Wicks and Chuck Parrett, Natural Resources and Conservation Department. They displayed maps of the Missoula area in which the 50 and 100 year flood plains were delineated to show that in actual area there was little difference. They again stressed their wish for this amendment to a present law so they could take advantage of information already gathered by the Army Corps of Engineers on the 100 year frequency and not have to do extensive, expensive research of their own on the 50 year frequency. Mr. Wicks, responding to a question, stated there were no appropriations from the administration for this project. He said Mr. Parrett had been doing the studies that had been done.

Rep. Lucas made a substitute motion to defer action on SB 445 until the 1974 session. A roll call vote was taken and there were 10 no (Shelden, Bradley, Colberg, Huennekens, Johnston, Quilici, Schepens, Stoltz, Swanberg, Harper); five yes and two absent (Lien and Ainsworth).

Chairman Sheldon called for a roll call vote on Rep. Harper's motion to concur. There were 14 yes, Rep. Castles voted no, Rep. Lucas abstained, and Rep. Lien was absent.

HOUSE RESOLUTION 21:

Chairman Sheldon opened the meeting to a hearing on this resolution.

Rep. Asbjornson, the chief sponsor, stated it was a resolution from the Montana House of Representatives to the United States Congress asking them to provide funds for a study of Judith River. A group of people who live along this river, the Judith River Development Association, had requested this resolution because of flood damage during spring run-off.

HOUSE BILL 65:

Ted Doney, a state attorney, stated this bill had returned to the committee from the governor's office because of an error in a Senate amendment. The Senate had planned to put money earned as a result of sales of water projects in the general fund; but the way the wording is the sale of the water, too, can go either to the general fund or to the water district.

Rep. Lucas moved that the senate amendments to HB 65 be not concurred in. Motion carried unanimously except for those absent (Lien).

CONSIDERATION OF HR 21:

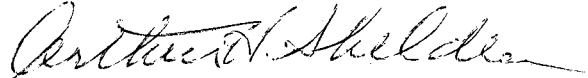
Rep. Walborn moved that HR 21 be adopted. The motion carried unanimously except for those absent (Lien).

Chairman Shelden announced that the subcommittee on 208 would be ready to report to the committee on Saturday. The meeting would start at 8 a.m. on that day. There would be a hearing on SB 300 on Saturday, also.

Chairman Shelden announced that the subcommittee for SB 444 was composed of Rep. Huennekens, chairman; Rep. Lucas; and Rep. Swanberg.

Chairman Shelden asked for a motion to adjourn, Rep. Johnston so moved, motion carried, meeting adjourned at 11:40 a.m.

Respectfully submitted,



ARTHUR H. SHELDEN
Chairman

eas

Saturday, March 3, 1973

The Natural Resources Committee met at 8 a.m. in room 405 with Chairman Shelden presiding and a quorum present.

Chairman Shelden announced that SB 300, scheduled for a hearing today, had been taken from our committee. Therefore, the committee would only consider SB 208.

SENATE BILL 208:

The subcommittee on this bill was composed of Reps. Bradley, Swanberg and Ainsworth.

Fletcher Newby, Environmental Quality Council, stated that two state agencies, Dept. of Natural Resources and Planning and Economic Development, plus interested parties had gone through the amendments suggested at the hearing on this bill and added in some features of HB 341. The subcommittee had checked through them and the recommended amendments were those before the committee.

Rep. Swanberg and the other members of the subcommittee went through the bill paragraph by paragraph explaining the reasons for changes. The amendments had been placed in the body of the bill and enough copies made for the committee members. The following changes were made by the committee.

The first change was in section 4, subsection (2), by adding after the words "registered engineer" the following words "or a registered land surveyor as their respective licensing laws allow". Rep. Swanberg moved that this change be accepted. Motion carried unanimously except for those absent (Lien).

The second and third changes had to do with exemptions to this act. The second change was in section 4, subsection (4), following subparagraph (d) by adding a new subparagraph to read as follows: "(e) which is made for the purpose of a gift or sale to any member of the land owner's immediate family;". This was moved for adoption by Rep. Swanberg and the motion carried unanimously except for those absent (Lien). The third change added a new subparagraph (f) after the above and reads as follows: "(f) which is leased or rented for farming and agricultural purposes." Rep. Bradley moved that we adopt this change and the motion carried unanimously except for those absent (Lien).

The last change by the committee was in section 6, subsection (2) and was to replace the words "value of" to make the sentence read correctly. Rep. Harper moved we adopt this change and the motion carried unanimously except for those absent (Lien).

Rep. Colberg moved that we adopt the amendments with the changes made by the committee and concur in the bill as amended. The motion carried unanimously by those present. A caucus had caused a number of committee members to leave before the vote could be taken, so not voting because they were absent were Reps. Castles, Lucas, Lundgren, Schye, Walborn, Lien. Rep. Ainsworth, before leaving, requested that his vote be cast for concurrence as amended.

SENATE BILL NO. 208

INTRODUCED BY TURNAGE, MOORE, GROFF, LYNCH

11-601 THROUGH 11-616, 11-3843 THROUGH 11-3848, 11-3851

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LOCAL GOVERNING BODIES TO ADOPT SUBDIVISION REGULATIONS AND IN DEFAULT THEREOF PROVIDING FOR THE PROMULGATION OF DEPARTMENTAL MINIMUM REQUIREMENTS; PROVIDING FOR THE SUBMISSION OF ENVIRONMENTAL ASSESSMENTS; PROVIDING FOR THE ADMINISTRATIVE ESTABLISHMENT OF PROCEDURES AND REQUIREMENTS FOR PREPARATION OF SUBDIVISION PLATS; SETTING FORTH REQUIREMENTS FOR SURVEYING AND PLATTING DIVISIONS OF REAL PROPERTY AND FOR RECORDING SURVEYS AND PLATS; PROVIDING FOR SURVEYING, PLATTING, AND SUBDIVIDING GENERALLY; AND REPEALING SECTIONS 11-601 THROUGH 11-616, 11-3843 THROUGH 11-3848 AND 11-3851, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. This act may be cited as the "Montana Subdivision and Platting Act."

Section 2. It is the purpose of this act to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to encourage development in harmony with the natural environment; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to plat or certificate of survey.

Section 3. As used in this act, unless the context or subject matter clearly requires otherwise, the following words or phrases shall have the following meanings:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to himself no rights which are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(3) "Examining land surveyor" means a county surveyor or a registered land surveyor duly appointed to review surveys and plats submitted for filing.

(4) "Governing body" means a board of county commissioners or the governing authority of any city or town organized pursuant to law.

(5) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks, or any combination thereof which comprises a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership.

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(6) "Plat" means a graphical representation of a subdivision showing the division of ~~a-tract-or-parcel-of~~ land into lots, parcels, blocks, streets, and alleys, and other divisions and dedications.

(7) "Preliminary plat" means a ~~neat-and neat and~~ scaled drawing of a proposed subdivision ~~showing-the-layout-of-streets,-alleys,-lots,-blocks,-and-other-elements-of-a-subdivision-which-furnish-a-basis-for-review-by-a-governing-body,-and-the~~ showing the layout of streets, alleys, parcels, lots, and blocks. The same shall be accompanied by any proposed covenants that to run with the platted land and other elements of the proposed subdivision required to furnish a basis of review by the governing body.

(8) "Final plat" means the final drawing of the subdivision and dedication prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this act and in regulations adopted pursuant thereto.

(9) "Registered land surveyor" means a person licensed in conformance with the Montana Professional Engineers' Registration Act (Sections 66-2301 through 66-2347) to practice surveying in the state of Montana.

(10) "Registered Professional Engineer" means a person licensed in conformance with the Montana Professional Engineers' Act (Sections 66-2301 through 66-2347) to practice engineering in the state of Montana.

~~{10}~~ (11) "Subdivider" means any person who causes land to be subdivided or who proposes a subdivision of land.

~~{11}~~ (12) "Subdivision" ~~means-the-division-of-land,-or-land-so-divided,-into-two-(2)-or-more-parcels,-whether-contiguous-or-not,-any-of-which-is-less-than-forty-(40)-ten-(10)-acres-or-less-exclusive-of-public-roadways-in-size-and-cannot-be-described-as-a-quarter-quarter-section-or-a-United-States-government-lot,-except-by-metes-and-bounds-in-order-that-the-title-or-possession-of-the-parcels-or-any-interest-therein-may-be-sold,-rented,-leased,-or-otherwise-conveyed-either-immediately-or-in-the-future-whether-the-division-is-made-by-reference-to-a-map-or-survey-or-by-a-metes-and-bounds-description-of-the-parcels,-and-shall-include-any-resubdivision-of-land,-provided-further-that-a-division-of-land-is-a-subdivision-when-the-division-creates-a-second-or-any-subsequent-parcel-for-the-purpose-of-sale,-rent,-lease-or-other-conveyance-from-a-tract-of-land-held-in-single-or-undivided-ownership-on-July-1,-1973,-where-any-of-the-parcels-segregated-from-the-original-tract-is-less-than-forty-(40)-ten-(10)-acres-exclusive-of-public-roadways-in-size,-and-cannot-be-described-as-a-quarter-quarter-section-or-as-a-United-States-government-lot,-except-by-metes-and-bounds,-the-plat-of-a-subdivision-so-created-shall-show-all-of-the-parcels-smaller-than-ten-(10)-acres-in-size-segregated-from-the-original-tract-whether-contiguous-or-not.~~

(12) "Subdivision" means the division of land, or land so divided, into two (2) or more lots or parcels, whether contiguous or not, any of which is forty (40) acres or less, exclusive of public roadways, in order that the title or possession or any interest therein may be sold, rented, leased, or otherwise conveyed, either immediately or in the future, whether the division is made by reference to a map or

survey or by a metes-and-bounds description, and shall include any condominium, space for camping trailers, house trailers, or mobile or prefabricated homes, as well as any resubdivision of land; provided further that a division of land is a subdivision when the division creates a second or any subsequent lot or parcel for the purpose of sale, rent, lease, or other conveyance from a tract of land held in single or undivided ownership on July 1, 1973, where any of the lots or parcels segregated from the original tract is forty (40) acres or less exclusive of public roadways; the plat of the subdivision so created shall show all of the lots or parcels segregated from the original tract whether contiguous or not.

The survey requirements of this act shall not apply to lots or parcels which can be described as a quarter quarter section or a United States government lot.

Section 4. (1) Except as provided herein, all divisions-of-real property-SUBDIVISION divisions of real property made after June 30, 1973, into-lots,-tracts-or-parcels-any-of-which-is-less-than-forty-(40)-acres-in size-and-cannot-be-described-as-a-quarter-quarter-section-or-a-United-States government-lot,-or-into-tracts-OR-DIVISIONS into lots, tracts, or parcels any of which is forty (40) acres or less in size and cannot be described as a quarter quarter section or a United States government lot, or into tracts of land the boundaries or area of which cannot be determined without a survey or trigonometric calculation, must be surveyed by or under the supervision of a registered surveyor; and a certificate of survey thereof must be completed by the surveyor and filed by him in the office of the county clerk and recorder of the county in which the real property lies.

(2) Every subdivision of land after June 30, 1973 shall be surveyed and platted in conformance with this act by or under the supervision of a registered land surveyor. Subdivision plats shall be prepared and filed in accordance with this act and regulations adopted pursuant thereto. Each subdivision plat must be accompanied by as complete a survey of the section or sections in which the subdivision is located as may be necessary to properly orient the subdivision within such section or sections. All division of sections into aliquot parts and retracement of lines must conform to United States bureau of land management instruction and all public land survey corners shall be filed in accordance with the Corner Recordation Act of Montana (sections 67-2001 through 67-2019). Engineering plans, specifications, and reports, and soils-and-ground water-investigations required in connection with public improvements and other elements of the subdivision required by the governing body shall be prepared and filed by a registered engineer in accordance with this act and regulations adopted pursuant thereto.

or a registered land surveyor or the respective licensing laws allow
(3) Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with section 32-2413, and are exempted from the surveying and platting requirements of this act; provided, however, that if such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording.

(4) Unless the method of disposition is adopted for the purpose of evading this act, the requirements of this act shall not apply to any division of land:

(a) which is created by order of any court of record in this state or by operation of law, or which, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain (Sections 93-9901 through 93-9926);

(b) which is created by a lien, mortgage, or trust indenture;

(c) which creates an interest in oil, gas, minerals, or water which is now or hereafter severed from the surface ownership of real property;

(d) which creates cemetery lots.

made for the purpose of a gift or sale to any member of the land owner's
~~(e) -- which is created by a rental or lease agreement for a term of three (3) years or less --~~ *immediate family.*

(5) The department of intergovernmental relations shall, in conformance with the Montana Administrative Procedure Act (sections 82-4201 through 82-4225), prescribe uniform standards for monumentation and for the form, accuracy, and descriptive content of records of survey.

(6) It shall be the responsibility of the governing body to require the replacement of all monuments removed in the course of construction.

f. ~~a~~

Section 5. (1) The governing body of every county, city, and town shall, before July 1, 1974, adopt and provide for the enforcement and administration of subdivision regulations reasonably providing for the orderly development of their jurisdictional areas; for the coordination of roads within subdivided land with other roads, both existing and planned; for the dedication of land for roadways and for public utility easements; for the improvement of roads; for the provision of adequate open spaces for travel, light, air and recreation; for the provision of adequate transportation, water, drainage, and sanitary facilities; for the avoidance of congestion; and for the avoidance or minimization of ~~subdivision-which-would-involve-inordinate~~ environmental degradation; ~~or and the avoidance of~~ danger or injury to health, safety, or welfare by reason of natural hazard or the lack of water, drainage access, transportation or other public services or would necessitate an excessive expenditure of public funds for the supply of such services.

Prior to adopting or amending subdivision regulations pursuant to this act, the governing body shall submit the proposed regulations or amendments to the department of intergovernmental relations for review.

Before the governing body adopts subdivision regulations pursuant to this section it shall hold a public hearing thereon and shall give public notice of its intent to adopt such regulations and of the public hearing by publication of notice of the time and place of the hearing in each newspaper published in the county not less than fifteen (15) nor more than thirty (30) days prior to the date of the hearing.

(2) Not later than December 31, 1973, the ~~The~~ department of intergovernmental relations shall, in conformance with the Montana Administrative Procedure Act (sections 82-4201 through 82-4225), prescribe model subdivision rules and minimum requirements ~~minimum-administrative-and review-procedures~~ in accordance with the Montana Environmental Policy Act to be contained in, and those subject areas which must be addressed by, subdivision regulations adopted pursuant to this act. The subdivision rules and minimum requirements shall include detailed criteria for the content of the environmental assessment required by this act. The department governing body shall provide for the review of preliminary plats by those agencies of state and local government and affected public utilities having a substantial interest in proposed subdivision; provided, however, that such agency or utility review shall not delay the governing body's action on the plat beyond the time limit specified herein, and the failure of any agency to complete a review of a plat shall not be a basis for rejection of the plat by the governing body.

(3) In prescribing the minimum contents of the subdivision regulations, the department of intergovernmental relations shall require the submission by the subdivider to the governing body of an environmental assessment conforming to minimum requirements promulgated by the department of intergovernmental relations.

(4) The environmental assessment shall accompany the preliminary plat and shall include:

(a) a description of every body or stream of surface water, and a complete report of such groundwater as may be affected by the proposed subdivision, and a description of the topography (including elevations above sea level), vegetation and wildlife use within the area of the proposed subdivision;

(b) reports concerning geology of the area with emphasis on identifying and describing geological hazards to the proposed development;

(c) maps and tables showing soil types in the several parts of the proposed subdivision, and their suitability for any proposed developments in those several parts;

(d) a community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing, roads and maintenance, water, sewage, and solid waste facilities, and fire and police protection.

(3) (5) Local subdivision regulations shall include procedures for the summary review and approval of subdivision plats containing five (5) or fewer lots or parcels all of which front on an existing public road where no land in the subdivision will be dedicated to public use and which have been approved by the department of health and environmental sciences where such approval is required by sections 69-5001 through 69-5005; provided that reasonable local regulations may contain additional requirements for summary approval.

(4) (6) Subdivision regulations may authorize the governing body to grant variances from the specific dimensional requirements of the regulations when strict compliance will result in undue hardship and when it is not essential to the public welfare. Any variance granted pursuant to this subsection must be based on specific variance criteria contained in the subdivision regulations.

(5) (7) Local regulations may provide that in lieu of the completion of the construction of any public improvements prior to the approval of a final plat, the governing body ~~may accept~~ shall require a bond or other reasonable security, in an amount and with surety and conditions satisfactory to it, providing for and securing the construction and installation of such improvements within a period specified by the governing body and expressed in the bonds or other security.

(8) In the event that any governing body has not adopted subdivision regulations by July 1, 1974, which meet or exceed the minimum requirements, the department shall, no later than January 1, 1975, promulgate regulations to be enforced by the governing body. If at any time thereafter the governing body adopts its own subdivision regulations, these shall supersede those promulgated by the department but shall be no less stringent.

Section 6. (1) A subdivision plat in which any lot is five (5) acres or less in size shall show that one-ninth (1/9) of the platted area, exclusive of all other dedications, is forever dedicated to the public for parks and playgrounds.

A subdivision plat in which all lots shown are greater than five (5) acres in size shall show that one-twelfth (1/12) of the platted area, exclusive of all other dedications, is forever dedicated to the public for parks and playgrounds. There shall be no requirement for dedication of parks and playgrounds when the subdivision plat show that all lots or parcels are greater than ten (10) acres in size. The governing body, in consultation with the planning board having jurisdiction, may determine suitable locations for such parks and playgrounds.

(2) Where, because of size, topography, shape, location, or other circumstances, the dedication of land for parks and playgrounds is undesirable, the governing body may, for good cause shown, make an order

to be endorsed and certified on the plat accepting a cash donation in lieu of the dedication of land and equal to the fair market value of the amount of land that would have been dedicated. For the purpose of this section, the fair market value is the ~~value-of-the-unsubdivided, unimproved-land~~ subdivided, unimproved land. Such cash donation shall be paid into the park fund to be used for the purchase of additional lands or for the initial development of parks and playgrounds.

(3) If the proposed plat provides for a planned unit development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside therein, the governing body may issue an order waiving land dedication and cash donation requirements.

(4) If a tract of land is being developed under single ownership as a part of an overall plan, and part of the tract has been subdivided and sufficient park lands have been dedicated to the public from the area that has been subdivided to meet the requirements of this section for the entire tract being developed, the governing body shall issue an order waiving the land dedication and cash donation requirements for the subsequently platted area.

~~-(5)--The-local-governing-body-may-waive-dedication-and-cash-donation requirements-where-all-of-the-parcels-in-a-subdivision-are-five-(5)-acres-or-more-in-size-and-where-the-subdivider-enters-a-covenant-to-run-with-the-land-and-revocable-only-by-consent-of-the-governing-body-that the-parcels-in-the-subdivision-will-never-be-subdivided-into-parcels-of less-than-five-(5)-acres-and-that-all-parcels-in-the-subdivision-will-be-used-for-single-family-dwellings--~~

Section 7. Where a subdivision platted under this act contains land to be dedicated to public use, the subdivider shall submit with the preliminary plat either:

(1) a certificate of a licensed title abstractor showing the names of the owners of record of the land to be dedicated and the names of lien holders or claimants of record against the land and the written consent to the dedication by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land; or

(2) title insurance guaranteeing the public's interest in the dedicated land in a reasonable amount to be determined by the governing body.

Section 8. (1) Except where a plat is eligible for summary approval the subdivider shall present to the governing body, or the agent or agency designated thereby, the preliminary plat of the proposed subdivision for local review. When the proposed subdivision lies within the boundaries of an incorporated city or town, the preliminary plat shall be submitted to and approved by the city or town governing body. When the proposed subdivision is situated entirely in an unincorporated area the preliminary plat shall be submitted to and approved by the governing body of the county; however, if the proposed subdivision lies within one (1) mile of a third class city or town or within two (2) miles of a second class city or within three (3) miles of a first class city the county governing body shall submit the preliminary plat to the city or town governing body for review and comment.

If the proposed subdivision lies partly within an incorporated city or town, the proposed plat thereof must be submitted to and approved by both the city or town and the county governing bodies. This section does not limit the authority of certain municipalities to regulate subdivisions beyond their corporate limits pursuant to section 11-3305.

(2) The governing body shall approve, conditionally approve, or reject the preliminary plat within ~~forty-five-(45)~~ sixty (60) days of its presentation. The preliminary plat shall show all pertinent features of the proposed subdivision and all proposed improvement. The governing body or its designated agent or agency shall review the preliminary plat to determine whether it conforms to the local master plan if one has been adopted pursuant to sections 11-3801 through 11-3856 to the provisions of this act, and to rules and regulations prescribed or adopted pursuant to this act.

(3) The governing body or its authorized agent or agency shall hold a public hearing on the preliminary plat and shall consider all relevant evidence relating to the public health, safety and welfare, including the environmental assessment, to determine whether the plat should be approved, conditionally approved, or disapproved by the governing body. Notice of such hearing shall be given by publication in a newspaper published in the county not less than fifteen (15) days prior to the date of the hearing. When a hearing is held by an agent or agency designated by the governing body, the agent or agency shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or disapproval of the plat. This recommendation must be submitted to the governing body in writing not later than ten (10) days after the public hearing. If the governing body rejects or conditionally approves the preliminary plat, it shall forward one (1) copy of the plat to the subdivider accompanied by a letter over the appropriate signature stating the reason for rejection or enumerating the conditions which must be met to assure approval of the final plat.

(4) Upon approving or conditionally approving a preliminary plat, the governing body shall affix a dated and signed statement of approval to the preliminary plat. The governing body shall forward one (1) copy of the approval statement to the subdivider. This approval shall be in force for not more than one (1) calendar year; at the end of this period the governing body may, at the request of the subdivider, extend its approval for no more than one (1) calendar year.

Section 9. (1) All final subdivision plats shall be reviewed for errors and omissions in calculation or drafting by an examining land surveyor. He shall ascertain that all features, such as streets, drainage, and all other improvements and facilities to be operated or maintained with public funds, are essentially the same as those shown on the approved preliminary plat; that the permanent control monuments meet requirements prescribed pursuant to this act; that all exterior boundaries and corners of the tract are shown in sufficient detail so as to leave no doubt as to how they were established; and that all monuments and references marking exterior corners conform to standards of size and position promulgated pursuant to this act. When the survey data shown on the plat meet the conditions set forth by or pursuant to this act, the examining land surveyor shall so certify in a printed or stamped certificate on the plat; such certificate shall be signed by him.

No land surveyor shall act as an examining land surveyor in regard to a plat in which he has a financial or personal interest other than as draftsman of the plat.

(2) The governing body shall examine every final subdivision plat and shall approve it for record when, and only when, it conforms to the conditions of approval set forth on the preliminary plat and to the terms of this act and regulations adopted pursuant thereto.

(3) Every final subdivision plat must be filed for record with the county clerk and recorder before any interest in the subdivided land can be sold, rented, leased, or transferred in any manner or offered for sale, lease, or transfer. If illegal transfers or offers of any manner are made, the county attorney shall commence action to enjoin further sales, transfers, or offers of sale or transfer and compel compliance with all provisions of this act. The cost of such action shall be imposed against the person transferring or offering to transfer the property.

Section 10. The governing body may establish reasonable fees to be paid by the subdivider to defray the expense of reviewing subdivision plats.

Section 11. All covenants shall be considered to run with the land, whether marked or noted on the subdivision plat or contained in a separate instrument recorded with the plat.

Section 12. (1) Any plat prepared and recorded as herein provided may be vacated either in whole or in part as provided by sections 11-2801 and 11-2803, and upon such vacation the title to the streets and alleys of such vacated portions to the center thereof shall revert to the owners of the properties within the platted area adjacent to such vacated portions; provided however, that when any pole line, pipe line, or any other public or private facility that is located in a vacated street or alley at the time of the reversion of the title thereto, the owner of said public or private utility facility shall have an easement over the vacated land to continue the operation and maintenance of the public utility facility.

(2) All plats and other title records which were recorded prior to the effective date of this act in accordance with the law in force at the time of recording and which have not been subsequently vacated are hereby validated, notwithstanding irregularities, and have the same legal status as plats recorded under the provisions of this act.

(3) The recording of any plat made in compliance with the provisions of this act shall serve to establish the identity of all lands shown on and being a part of such plat. Where lands are conveyed by reference to a plat, the plat itself or any copy of the plat properly certified by the county clerk and recorder as being a true copy thereof, shall be regarded as incorporated into the instrument of conveyance and shall be received in evidence in all courts of this state.

Section 13. Every donation or grant to the public, or to any person, society, or corporation, marked or noted on a plat is to be considered a grant to the donee.

Section 14. (1) Within one hundred eighty (180) days of the completion of a survey the registered land surveyor responsible for the survey, whether he is privately or publicly employed, shall prepare and file for record a certificate of survey in the county in which the survey was made if the survey:

(a) provides material evidence not appearing on any map filed with the county clerk and recorder or contained in the records of the United States bureau of land management;

(b) reveals a material discrepancy in such map;

(c) discloses evidence to suggest alternate locations of lines or points;

(d) establishes one or more lines not shown on a recorded map the positions of which are not ascertainable from an inspection of such map without trigonometric calculations.

(2) A certificate of survey will not be required for any survey which is made by the United States bureau of land management or which is preliminary or which will become part of a subdivision plat being prepared for recording under the provisions of this act.

(3) Certificates of survey shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record and shall conform to monumentation and surveying requirements promulgated under this act.

Section 15. The county clerk and recorder shall maintain an index of all recorded subdivision plats and certificates of survey. This index shall list plats and certificates of survey by the quarter section, section, township, and range in which the platted or surveyed land lies and shall list the recording or filing numbers of all plats depicting land lying within each quarter section. The quarter section list shall be definitive to the exclusion of all other quarter sections. The index shall also list the names of all subdivision plats in alphabetical order and the place where filed.

Section 16. When a recorded plat does not definitely show the location or size of lots or blocks, or the location or width of any street or alley, the governing body may at its own expense require cause a new and correct survey and plat to be made and recorded in the office of the county clerk. The corrected plat must, to the extent possible, follow the plan of the original survey and plat. The surveyor making the resurvey shall endorse the corrected plat referring to the original plat and noting the defect existing therein and the corrections made.

Section 17. Every registered land surveyor may administer and certify oaths:

(1) when it becomes necessary to take testimony for the identification of old corners or reestablishment of lost or obliterated corners;

(2) when a corner or monument is found in a deteriorating condition and it is desirable that evidence concerning it be perpetuated;

(3) when the importance of the survey makes it desirable to administer an oath to his assistants for the faithful performance of their duty.

A record of oaths shall be preserved as part of the field notes of the survey, and noted on the certificate of survey filed under this section.

Section 18. Any person who violates any provision of this act or any local regulations adopted pursuant thereto shall be guilty of a misdemeanor and punishable by a fine of not less than one hundred dollars (\$100) or more than five hundred dollars (\$500) or by imprisonment in a county jail for not more than three (3) months, or by both fine and imprisonment. Each sale, lease or transfer, or offer for sale, lease, or transfer of each separate lot, parcel, or acre of land (whichever is lesser in area) in violation of any provision of this act or any local regulation adopted pursuant thereto shall be deemed a separate and distinct offense.

Section 19. If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Section 20. Sections 11-601 through 11-616, 11-3843 through 11-3848, and 11-3851, R.C.M. 1947, are repealed.

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AVAILABLE

43rd LEGISLATIVE SESSION 1973

ROLL CALL VOTE ---

NATURAL RESOURCES

COMMITTEE

for

	Date: 2-20-74 No: SB230 <i>Be Concurred In</i>	Date: 2-20-74 No: SB 211 <i>Be Concurred In</i>	Date: 2-20-74 No: SB 443 <i>Be Concurred In</i>	Date: 2-21-74 No: SB 60 <i>Be Concurred In</i>	Date: 2-27-74 No: SB 94 <i>Concurred To</i>	Date: 3-1-74 No: SB445 <i>Be Concurred In</i>	Date: 3-1-74 No: HR 21 <i>Be Concurred</i>	Date: 3-3-74 No: SB208 <i>Be Concurred</i>
Arthur H. Sheldon	✓	✓	✓	✓	✓	✓	✓	✓
Dorothy M. Bradley	✓	✓	✓	✓	✓	✓	✓	✓
A. L. Ainsworth	✓	✓	✓	✓	absent	✓	✓	✓
Ruth B. Castles	✓	✓	✓	✓	✓	NO	✓	absent
Richard A. Colberg	✓	✓	✓	✓	✓	✓	✓	✓
Hal Harper	✓	✓	✓	✓	✓	✓	✓	✓
Herb Huennekens	✓	✓	✓	✓	✓	✓	✓	✓
George R. Johnston	✓	✓	✓	✓	absent	✓	✓	✓
Orphey Lien	NO	✓	✓	✓	absent	absent	absent	absent
James P. Lucas	✓	✓	✓	✓	✓	abstained	✓	absent
Conrad F. Lundgren	✓	✓	✓	✓	absent	✓	✓	absent
Joe Ouilici	absent	absent	absent	absent	absent	✓	✓	✓
Henry J. Schepens	✓	✓	✓	✓	✓	✓	✓	✓
Elmer Schye	✓	✓	✓	✓	✓	✓	✓	absent
Gail Stoltz	✓	✓	✓	✓	✓	✓	✓	✓
Gorham E. Swanberg	absent	absent	absent	absent	absent	✓	✓	✓
John E. Walborn	✓	✓	✓	✓	✓	✓	✓	absent

25

March 5, 1973

HOUSE NATURAL RESOURCES COMMITTEE AMENDMENTS TO S.B. 208

AMEND THE SENATE THIRD READING BILL AS FOLLOWS:

Amend page 1, line 7, title, following the word "REGULATIONS" and before the punctuation ";" by adding the following "AND IN DEFAULT THEREOF PROVIDING FOR THE PROMULGATION OF DEPARTMENTAL MINIMUM REQUIREMENTS; PROVIDING FOR THE SUBMISSION OF ENVIRONMENTAL ASSESSMENTS", ANN and

further amend on page 3, section 3, subsection (6), line 7, following the words "division of" by striking the words "a-tract-or-parcel-of" and on line 8 following the word and punctuation "lots," by adding the word and punctuation "parcels," and

further amend on page 3, section 3, subsection (7), line 10, following the words "means a" by adding the words "neat and", and

further amend on page 3, section 3, subsection (7), line 11, following the word "subdivision" by adding the following "showing the layout of streets, alleys, parcels, lots, and blocks", and

further amend on pages 4 and 5, section 3, subsection (12), lines 8 through 15, page 4, and lines 1 through 6 on page 5 by striking them in their entirety and inserting in lieu thereof this new subsection (12), "(12) 'Subdivision' means the division of land, or land so divided, into two (2) or more lots or parcels, whether contiguous or not, any of which is

forty (40) acres or less, exclusive of public roadways, in order that the title or possession or any interest therein may be sold, rented, leased, or otherwise conveyed, either immediately or in the future, whether the division is made by reference to a map or survey or by a metes-and-bounds description, and shall include any condominium, space for camping trailers, house trailers, or mobile or prefabricated homes, as well as any resubdivision of land; provided further that a division of land is a subdivision when the division creates a second or any subsequent lot or parcel for the purpose of sale, rent, lease, or other conveyance from a tract of land held in single or undivided ownership on July 1, 1973, where any of the lots or parcels segregated from the original tract is forty (40) acres or less exclusive of public roadways; the plat of the subdivision so created shall show all of the lots or parcels segregated from the original tract whether contiguous or not.

The survey requirements of this act shall not apply to lots or parcels which can be described as a quarter section or a United States government lot.
and

further amend on page 5, section 4, subsection (1), line 8, following the word "all" by striking the word "SUBDIVISIONS" and insert in lieu thereof the words "division of real property", and

further amend on page 5, section 4, subsection (1), line 12, by striking the words "OR-DIVISIONS" and insert in lieu thereof the words "into lots, tracts, or parcels any of which is forty (40) acres or less in size and cannot be described as a quarter quarter section or a United States government lot, or into tracts", and

further amend on page 6, section 4, subsection (2), lines 8 and 9, following the word "and" by striking "~~SOILS-AND-GROUND-WATER-INVESTIGATIONS~~", and

further amend on line 12 following the word "ENGINEER" and before the word "IN" by adding the words "or a registered land surveyor as their respective licensing laws allow", and

further amend on page 7, section 4, subsection (4), subparagraph (e), lines 13 and 14 by striking them in their entirety and inserting in lieu thereof a new subparagraph (e) which reads as follows "(e) which is made for the DO PASS purpose of a gift or sale to any member of the landowner's immediate family;", and

further amend on page 7, section 4, subsection (4), subparagraph (e), following line 14 by adding a new subparagraph to read as follows "(f) which is leased or rented for farming and agricultural purposes.", and

further amend on page 8, section 5, subsection (1), line 9, following the word "avoidance" and before the word "of" by adding the words "or minimization", and further amend on line 10 by striking the words "~~subdivision which would involve inordinate~~", and further amend on line 11 following the word "degradation" by striking the word "er" and inserting in lieu thereof the punctuation and words "; and the avoidance of", and

further amend on page 8, section 5, subsection (1), following line 15 by adding the following new paragraph "Prior to adopting or amending subdivision regulations pursuant to this act, the governing body shall submit the proposed regulations or amendments to the department of inter-governmental relations for review.", and

further amend page 8, section 5, subsection (2), line 24 by striking the word "The" and inserting in lieu thereof the following words "Not later than December 31, 1973, the", and

further amend page 9, section 5, subsection (2), line 2 by striking the first five words in the line "~~minimum-administrative-and-review-procedures~~" and inserting in lieu thereof the following "model subdivision rules and minimum requirements in accordance with the Montana Environmental Policy Act", and

further amend page 9, section 5, subsection (2), line 4 following the word and punctuation "act." by adding the following new sentence, "The subdivision rules and minimum requirements shall include detailed criteria for the content of the environmental assessment required by this act.", and

further amend page 9, section 5, subsection (2), line 5 by striking the first word "department" and inserting in lieu thereof the following words "governing body", and

further amend page 9, section 5, subsection (2) following line 12, by adding two new subsections to read as follows, "(3) In prescribing

the minimum contents of the subdivision regulations, the department of intergovernmental relations shall require the submission by the subdivider to the governing body of an environmental assessment conforming to minimum requirements promulgated by the department of intergovernmental relations.

(4) The environmental assessment shall accompany the preliminary plat and shall include:

(a) a description of every body or stream of surface water, and a complete report of such groundwater as may be affected by the proposed subdivision, and a description of the topography (including elevations above sea level), vegetation and wildlife use within the area of the proposed subdivision;

(b) reports concerning geology of the area with emphasis on identifying and describing geological hazards to the proposed development;

(c) maps and tables showing soil types in the several parts of the proposed subdivision, and their suitability for any proposed developments in those several parts;

(d) a community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including

education and busing, roads and maintenance, water, sewage, and solid waste facilities, and fire and police protection.", and

further amend page 9, section 5, subsection (3), line 13 by renumbering subsection "~~{3}~~" to subsection "(5)", and

further amend page 9, section 5, subsection (4), line 23 by renumbering subsection "~~{4}~~" to read subsection "(6)", and

further amend page 9, section 5, subsection (4), line 24 following the word "THE" and before the word "REGULATIONS" by adding the words "specific dimensional requirements of the", and

further amend page 10, section 5, subsection (5), line 5 by renumbering the subsection "~~{5}~~" to read subsection "(7)" and on line 8 ~~BY~~ following the word "body" by striking the words "may-accept" and inserting in lieu thereof the words "shall require", and

further amend page 10, section 5, subsection (5), following line 13 by adding a new subsection to read as follows, "(8) In the event that any

governing body has not adopted subdivision regulations by July 1, 1974, which meet or exceed the minimum requirements, the department shall, no later than January 1, 1975, promulgate regulations to be enforced by the governing body. If at any time thereafter the governing body adopts its own subdivision regulations, these shall supersede those promulgated by the department but shall be no less stringent.", and

further amend page 10, section 6, subsection (1), line 25 following the word "lots" and before the word "are" by adding the words "or parcels", and

further amend page 11, section 6, subsection (2), line 12 following the words "of the" by striking the word "~~unsubdivided~~" and inserting in lieu thereof the word "subdivided", and

further amend page 12, section 6, subsection (5), lines 5 through 12 by striking them in their entirety. and

further amend page 13, section 8, subsection (2), lines 24 and 25 following the word "within" by striking the words and figures "~~forty-five-(45)-days~~"

and inserting in lieu thereof the words and figures "sixty (60) days", and

further amend page 14, section 8, subsection (3), line 11 following the word "WELFARE" by adding the punctuation and words ", including the environmental assessment,", and

further amend page 16, section 9, subsection (1), line 7, following the word "interest" by striking the words "~~OTHER-THAN-AS-DRAFTSMAN-OF-THE-PLAT~~", and

further amend page 16, section 9, subsection (2), line 9, following the word "it" by striking the words "~~for-record~~"; and further amend line 9 following the word "when" by adding the punctuation and words ", and only when,"; and further amend on line 11 following the word "plat" by adding the words "and to the terms of this act and regulations adopted pursuant thereto", and

further amend page 21, section 18, line 5 following the word "separate" and before the word "parcel" by adding the word and punctuation "lot,"; and further amend line 5 following the word "parcel" and before the word "of" by adding the punctuation and word ", or acre"; and further amend line 9 following the word "land" by adding the punctuation and words "(whichever is lesser in area)".

SB 208

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STATE OF MONTANA

3-6-73

HOUSE OF REPRESENTATIVES

1973 - 1974

VOTE TABULATION

636673

SB208

CALL

MOTION

67	AYE	28	NAY	14	ABSENT
RAY	Aageson, Dave	RAY	Hager, Tom	AYE	Marks, Robert L. (Bob)
AYE	Ainsworth, A. L. (Bud)	AYE	Haines, Tom	ABS	Mehrens, John "Sandy"
AYE	Asbjornson, R. O. "Boots"	AYE	Hall, John C. <i>pr</i>	AYE	Menahan, William "Red"
AYE	Baeth, William R. (Bill)	AYE	Halvorson, Ora J.	RAY	Mercer, Wallace W. (Wally)
AYE	Bardanouve, Francis	AYE	Harper, Hal	AYE	Murphy, John
AYE	Barrett, Fred D.	AYE	Harper, Robert J. "Bob"	AYE	Nichols, Norris
AYE	Baucus, Max S.	AYE	Healy, John E. (Jack)	AYE	Norman, Bill
RAY	Bell, John F.	AYE	Hodges, William C.	AYE	Olson, S. A.
AYE	Bennetts, Barbara K.	AYE	Holmes, Mrs. Polly	AYE	Prevost, Robert C.
AYE	Bradley, Dorothy M.	RAY	Holtz, Malcolm E.	AYE	Quilici, Joe
AYE	Brand, Joe	RAY	Hubing, Lee	AYE	Regan, Ann K. "Pat"
AYE	Brown, Robert J. (Bob)	AYE	Huennkens, Herb	AYE	Roberts, Joe R.
RAY	Burnett, James H. "Jim"	AYE	Jacobsen, Glenn	RAY	Rolfe, Tom
RAY	Campbell, William C.	AYE	Johnston, George R.	AYE	Schepens, Henry J.
AYE	Castles, Ruth B.	RAY	Jones, Tom L.	AYE	Schye, Elmer
ABS	Clemow, Tom	AYE	Kendall, Orin P.	RAY	Seifert, Carl A.
AYE	Colberg, Richard A.	RAY	Kessner, Jack E.	RAY	Selstad, Tom
AYE	Cotton, Robert S.	AYE	Kimble, Gary	AYE	Shelden, Arthur H.
AYE	Cox, Henry S. "Hank"	RAY	Kolstad, Allen C.	RAY	Smith, Carl M.
AYE	Driscoll, John B.	AYE	Kosena, Albert E. (Al)	AYE	Staigmiller, John B.
RAY	East, Vic	AYE	Kvaalen, Oscar S.	AYE	Stephens, Robert E.
AYE	Edland, Wallace B.	ABS	Laas, Walter	AYE	Stoltz, Gail
ABS	Ellerd, Robert A.	AYE	Lee, Robert E. (Bob)	AYE	Swanberg, Gorham E.
AYE	Fagg, Harrison G.	AYE	Lien, Orphey "Bud"	AYE	Tierney, John F.
AYE	Fasbender, Larry	<i>abs</i>	Lockrem, Lloyd C., Jr. <i>pr</i>	AYE	Towe, Thomas E.
AYE	Fleming, James F., Jr.	AYE	Lombardi, Jerry V.	AYE	Turman, George
AYE	Flynn, James W.	AYE	Lucas, James P.	RAY	Turner, Clyde A.
RAY	Forsgren, Wallace O.	ABS	Lund, Art	RAY	Ulmer, Walter J.
RAY	Galt, Jack E	ABS	Lundgren, Conrad F.	<i>abs</i>	Walborn, John E.
ABS	Gerke, Harold E.	ABS	Lynch, John "J.D."	AYE	Warfield, Bill
AYE	Glennen, Robert E.	ABS	McKittrick, Pat	AYE	Watt, Robert D.
AYE	Greely, Michael T.	AYE	Manuel, Rex	AYE	Yardley, Dan
AYE	Gunderson, Jack	<i>abs</i>	Marbut, Gary R.	ABS	Zimmer, William (Bill)
AYE	Hageman, Alvin			ABS	Mr. Speaker

SB 208

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SB 208

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STATE OF MONTANA

3-7-73

HOUSE OF REPRESENTATIVES

1973 - 1974

VOTE TABULATION

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SB208

CALL

MOTION

71	AYE	22	NAY	88	ABSENT
NOY	Aageson, Dave	NOY	Hager, Tom	AYE	Marks, Robert L. (Bob)
AYE	Ainsworth, A. L. (Bud)	AYE	Haines, Tom	AYE	Mehrens, John "Sandy"
AYE	Asbjornson, R. O. "Boots"	AYE	Hall, John C.	AYE	Menahan, William "Red"
AYE	Baeth, William R. (Bill)	ABS	Halvorson, Ora J.	NOY	Mercer, Wallace W. (Wally)
AYE	Bardanouve, Francis	AYE	Harper, Hal	AYE	Murphy, John
AYE	Barrett, Fred D.	AYE	Harper, Robert J. "Bob"	AYE	Nichols, Norris
AYE	Baucus, Max S.	AYE	Healy, John E. (Jack)	AYE	Norman, Bill
NOY	Bell, John F.	AYE	Hodges, William C.	ABS	Olson, S. A.
AYE	Bennetts, Barbara K.	AYE	Holmes, Mrs. Polly	AYE	Prevost, Robert C.
AYE	Bradley, Dorothy M.	AYE	Holtz, Malcolm E.	AYE	Quilici, Joe
AYE	Brand, Joe	AYE	Hubing, Lee	AYE	Regan, Ann K. "Pat"
AYE	Brown, Robert J. (Bob)	AYE	Huennekens, Herb	AYE	Roberts, Joe R.
NOY	Burnett, James H. "Jim"	AYE	Jacobsen, Glenn	NOY	Rolfe, Tom
NOY	Campbell, William C.	AYE	Johnston, George R.	AYE	Schepens, Henry J.
NOY	Castles, Ruth B.	NOY	Jones, Tom L.	AYE	Schye, Elmer
NOY	Clemow, Tom	AYE	Kendall, Orin P.	NOY	Seifert, Carl A.
AYE	Colberg, Richard A.	ABS	Kessner, Jack E.	NOY	Selstad, Tom
AYE	Cotton, Robert S.	AYE	Kimble, Gary	AYE	Shelden, Arthur H.
NOY	Cox, Henry S. "Hank"	NOY	Kolstad, Allen C.	NOY	Smith, Carl M.
AYE	Driscoll, John B.	AYE	Kosena, Albert E. (Al)	AYE	Staigmiller, John B.
NOY	East, Vic	AYE	Kvaalen, Oscar S.	AYE	Stephens, Robert E.
AYE	Edland, Wallace B.	AYE	Laas, Walter	AYE	Stoltz, Gail
NOY	Ellerd, Robert A.	AYE	Lee, Robert E. (Bob)	AYE	Swanberg, Gorham E.
AYE	Fagg, Harrison G.	AYE	Lien, Orphey "Bud"	AYE	Tierney, John F.
AYE	Fasbender, Larry	AYE	Lockrem, Lloyd C., Jr.	AYE	Towe, Thomas E.
AYE	Fleming, James F., Jr.	AYE	Lombardi, Jerry V.	AYE	Turman, George
AYE	Flynn, James W.	AYE	Lucas, James P.	NOY	Turner, Clyde A.
NOY	Forsgren, Wallace O.	AYE	Lund, Art	NOY	Ulmer, Walter J.
NOY	Galt, Jack E.	AYE	Lundgren, Conrad F.	AYE	Walborn, John E.
ABS	Gerke, Harold E.	AYE	Lynch, John "J.D."	AYE	Warfield, Bill
NOY	Glennen, Robert E.	AYE	McKittrick, Pat	AYE	Watt, Robert D.
AYE	Greely, Michael T.	AYE	Manuel, Rex	AYE	Yardley, Dan
AYE	Gunderson, Jack	ABS	Marbut, Gary R.	ABS	Zimmer, William (Bill)
AYE	Hageman, Alvin	AYE		AYE	Mr. Speaker

SB 208

21 Aye
37 NAY

3rd

3-7-73

2 ex
5 abs

101

Senate Bill No. 196 was concurred in by the following vote:

Ayts: Aageson, Ainsworth, Asbjornson, Baeth, Bardanouve, Barrett, Baucus, Bell, Bennetts, Bradley, Brand, Brown, Burnett, Campbell, Castles, Clemow, Colberg, Cotton, Cox, Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Flynn, Forsgren, Galt, Glennen, Greely, Gunderson, Hageman, Hager, Haines, Hall, H. Harper, R. Harper, Healy, Hodges, Holmes, Holtz, Huennekens, Jacobsen, Johnston, Jones, Kendall, Kimble, Kolstad, Kosen, Kvaalen, Laas, Lee, Lombardi, Lucas, Lund, Lundgren, Lynch, McKittrick, Manuel, Marbut, Marks, Mehrens, Menahan, Mercer, Murphy, Nichols, Norman, Olson, Prevost, Quilici, Regan, Roberts, Rolfe, Schepens, Schye, Seifert, Selstad, Shelden, Smith, Staigmillier, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Ulmer, Walborn, Warfield, Watt, Yardley, Zimmer, Mr. Speaker. Total 95.

Noes: None.

Excused: Hubing, Lockrem. Total 2.

Absent or not voting: Halvorson, Kessner, Lien. Total 3.

Senate Bill No. 208 was concurred in by the following vote:

Ayes: Ainsworth, Asbjornson, Baeth, Bardanouve, Barrett, Baucus, Bennetts, Bradley, Brand, Brown, Colberg, Cotton, Driscoll, Edland, Fagg, Fasbender, Fleming, Flynn, Greely, Gunderson, Hageman, Haines, Hall, H. Harper, R. Harper, Healy, Hodges, Holmes, Holtz, Huennekens, Jacobsen, Johnston, Kendall, Kimble, Kosen, Kvaalen, Laas, Lee, Lien, Lombardi, Lucas, Lund, Lundgren, Lynch, McKittrick, Manuel, Marks, Mehrens, Menahan, Murphy, Nichols, Norman, Prevost, Quilici, Regan, Roberts, Schepens, Schye, Shelden, Staigmillier, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Walborn, Warfield, Watt, Yardley, Mr. Speaker. Total 71.

Noes: Aageson, Bell, Burnett, Campbell, Castles, Clemow, Cox, East, Ellerd, Forsgren, Galt, Glennen, Hager, Jones, Kolstad, Mercer, Rolfe, Seifert, Smith, Turner, Selstad, Ulmer. Total 22.

Excused: Hubing, Lockrem. Total 2.

Absent or not voting: Halvorson, Kessner, Marbut, Olson, Zimmer. Total 5.

Senate Bill No. 245 was concurred in by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Bardanouve, Barrett, Baucus, Bell, Bennetts, Bradley, Brand, Brown, Campbell, Castles, Clemow, Colberg, Cotton, Cox, Driscoll, East, Edland, Ellerd, Fagg, Fasbender, Fleming, Forsgren, Galt, Glennen, Greely, Gunderson, Hageman, Hager, Haines, Hall, H. Harper, R. Harper, Healy, Hodges, Holtz, Huennekens, Jacobsen, Johnston, Jones, Kimble, Kolstad, Kosen, Kvaalen, Laas, Lee, Lien, Lombardi, Lucas, Lund, Lundgren, Lynch, McKittrick, Manuel, Marbut, Marks, Mehrens, Menahan, Mercer, Murphy, Nichols, Norman, Olson, Prevost, Quilici, Regan, Roberts, Rolfe, Schepens, Seifert, Selstad, Shelden, Smith, Staigmillier, Stephens, Stoltz, Swanberg, Tierney, Towe, Turman, Turner, Ulmer, Walborn, Warfield, Watt, Yardley, Zimmer, Mr. Speaker. Total 91.

Noes: Burnett, Flynn, Holmes. Total 3.

Excused: Hubing, Lockrem. Total 2.

Absent or not voting: Halvorson, Kendall, Kessner, Schye. Total 4.

Senate Bill No. 292 was concurred in by the following vote:

Ayes: Aageson, Ainsworth, Asbjornson, Baeth, Bardanouve, Barrett, Baucus, Bell, Bennetts, Bradley, Brand, Brown, Burnett, Campbell, Castles, Clemow, Colberg, Cotton, Cox, Driscoll, East, Edland, Ellerd, Fagg, Fas-

March 19, 1973

SENATE BILL NO. 208

JOINT CONFERENCE COMMITTEE REPORT

MR. PRESIDENT AND SPEAKER OF THE HOUSE:

We, your Joint Senate and House Conference Committee on Senate Bill No. 208, beg leave to report as follows:

That we met this day and considered House Natural Resources Committee amendments to Senate Bill No. 208, dated March 5, 1973, and recommend as follows:

That the House recede from all of the House Natural Resources Committee amendments to Senate Bill No. 208 dated March 5, 1973.

Your Joint Conference Committee recommend that Senate Bill No. 208 be amended as follows:

amend page 1, line 7, title, following the word "REGULATIONS" and before the punctuation ";" by adding the following "AND IN DEFAULT THEREOF PROVIDING FOR THE PROMULGATION OF DEPARTMENTAL MINIMUM REQUIREMENTS; PROVIDING FOR THE SUBMISSION OF ENVIRONMENTAL ASSESSMENTS";

further amend page 3, section 3, subsection (6), line 7, following the words "division of" by striking the words "a tract or parcel of" and on line 8 following the word and punctuation "lots," by adding the word and punctuation "parcels,";

further amend page 3, section 3, subsection (7), line 10, following the word "means a" by reinserting the words "neat and";

further amend page 3, section 3, subsection (7), line 11, following the word "subdivision" by reinserting the following: "showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnish a basis for review by a governing body;";

further amend pages 4 and 5, section 3, subsection (12), lines 8 through 25 on page 4, and lines 1 through 6 on page 5, by striking all of said lines being subsection (12) in its entirety and inserting in lieu thereof: "(12) "Subdivision" means the division of land, or land so divided, into two (2) or more parcels, whether contiguous or not, any of which is ten (10) acres or less, exclusive of public roadways, in size, without regard to the method of description thereof, in order that the title or possession of the parcels or any interest therein may be sold, rented, leased, or otherwise conveyed either immediately or in the future, and shall include any resubdivision of land; and shall further include any condominium or areas providing multiple space for camping trailers, house trailers or mobile homes; provided further that a division of land is a subdivision when the division creates a second or any subsequent parcel for the purpose of sale, rent, lease, or other conveyance from a tract of land held in single or undivided ownership on July 1, 1973, where any of the parcels segregated from the original tract is ten (10) acres or less, exclusive of public

STATE OF MICHIGAN
OF SENATE

SENATE 103

roadways, in size, without regard to the method of description thereof. The plat of a subdivision so created shall show all of the parcels segregated from the original tract whether contiguous or not.

"Subdivision" shall include any condominium or areas providing multiple space for camping trailers, house trailers, or mobile homes, regardless of the size of the parcel of land upon which the same is situated."

further amend page 5, section 4, subsection (1), line 8, following the word "all" by striking the word "SUBDIVISIONS" and insert in lieu thereof the words "division of real property";

further amend page 5, section 4, subsection (1), line 12, by striking the words "OR DIVISIONS" and inserting in lieu thereof the words "into lots, tracts, or parcels any of which is ten (10) acres or less in size" and further amend on line 12 by striking the words "of land" and inserting in lieu thereof the word "or";

✓ further amend page 6, section 4, subsection (2), lines 8 and 9, following the word "and" by striking "SOILS AND GROUND WATER INVESTIGATIONS";

✓ further amend page 6, section 4, subsection (2), line 12, following the word "ENGINEER" and before the word "IN" by adding the words "or a registered land surveyor as their respective licensing laws allow";

✓ further amend page 7, section 4, subsection (4), subparagraph (e), lines 13 and 14 by striking them in their entirety and inserting in lieu thereof a new subparagraph (e) which reads as follows "(e) which is made for the purpose of a gift or sale to any member of the land-owner's immediate family;"

✓ further amend page 7, section 4, subsection (4), following line 14 by adding a new subparagraph to read as follows "(f) which is leased or rented for farming and agricultural purposes."

✓ further amend page 8, section 5, subsection (1), line 9, following the word "avoidance" and before the word "of" by adding the words "or minimization", and further amend on line 10 by striking the word "inordinate" and inserting in lieu thereof the word "unnecessary", and further amend on line 11 following the word "degradation" by striking the word "or" and inserting in lieu thereof the punctuation and words "; and the avoidance of";

✓ further amend page 8, section 5, subsection (1), following line 15 by adding the following new paragraph "Prior to adopting or amending subdivision regulations pursuant to this act, the governing body shall submit the proposed regulations or amendments to the division of planning and economic development of the department of intergovernmental relations for review.";

✓ further amend page 8, section 5, subsection (2), line 24 by striking the word "The" and inserting in lieu thereof "Not later than December 31, 1973, the", and further on line 24 following the word "relations" by inserting the words and punctuation " , through its division of planning and economic development,";

March 19, 1973

further amend page 9, section 5, subsection (2), line 2 by striking "minimum administrative and review procedures" and inserting in lieu thereof the following "model subdivision rules and reasonable minimum requirements designed to promote the public health, safety and general welfare";

further amend page 9, section 5, subsection (2), line 4 following the word and punctuation "act." by adding the following new sentence "The subdivision rules and minimum requirements shall include detailed criteria for the content of the environmental assessment required by this act.";

further amend page 9, section 5, subsection (2), line 5 by striking the word "department" and inserting in lieu thereof the words "governing body";

further amend page 9, section 5, subsection (2), following line 12, by adding two new subsections to read as follows "(3) In prescribing the minimum contents of the subdivision regulations, the department of intergovernmental relations, through its division of planning and economic development, shall require the submission by the subdivider to the governing body of an environmental assessment."

(4) The environmental assessment shall accompany the preliminary plat and shall include:

(a) a description of every body or stream of surface water as may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation and wildlife use within the area of the proposed subdivision;

(b) maps and tables showing soil types in the several parts of the proposed subdivision, and their suitability for any proposed developments in those several parts;

(c) a community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing, roads and maintenance, water, sewage, and solid waste facilities, and fire and police protection;

(d) such additional relevant and reasonable information as may be required by the department through its division of planning and economic development.";

further amend page 9, section 5, subsection (3), line 13 by re-numbering subsection (3) to be subsection "(5)";

further amend page 9, section 5, subsection (4), line 23 by re-numbering subsection (4) to read subsection "(6)";

further amend page 10, section 5, subsection (5), line 5 by re-numbering the subsection (5) to read subsection "(7)", and on line 8 following the word "body" by striking the words "may accept" and inserting in lieu thereof the words "shall require";

further amend page 10, section 5, subsection (5), following line 13 by adding a new subsection to read as follows "(8) In the event that any governing body has not adopted subdivision regulations by July 1, 1974, which meet or exceed the prescribed minimum requirements, the

department shall, through its division of planning and economic development, no later than January 1, 1975, promulgate reasonable regulations to be enforced by the governing body. If at any time thereafter the governing body adopts its own subdivision regulations, these shall supersede those promulgated by the department but shall be no less stringent."

further amend page 10, section 6, subsection (1), line 25 following the word "lots" and before the word "are" by adding the words "or parcels";

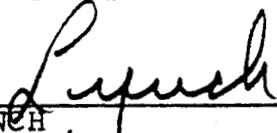
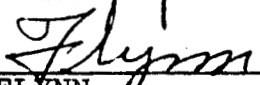
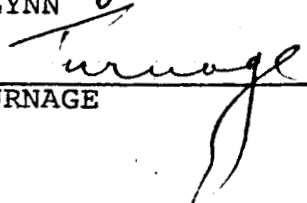
further amend page 13, section 8, subsection (2), lines 24 and 25 following the word "within" by striking the words and figures "forty five (45) days" and inserting in lieu thereof the words and figures "sixty (60) days";

further amend page 14, section 8, subsection (3), line 11 following the word "WELFARE" by adding the punctuation and words ", including the environmental assessment,";

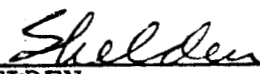
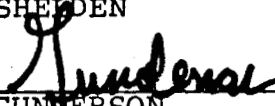
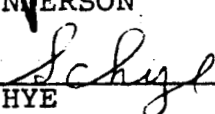
further amend page 16, section 9, subsection (2), line 9, following the word "it" by striking the words "for record"; and further amend line 9 following the word "when" by adding the punctuation and words ", and only when,"; and further amend on line 11 following the word "plat" by adding the words "and to the terms of this act and regulations adopted pursuant thereto".

And as amended, Senate Bill No. 208 Do Pass.

FOR THE SENATE:


LYNCH

FLYNN

TURNAGE

FOR THE HOUSE:


SHELDEN

GUNNERTSON

SCHYE

Conf. Com. By
SB 208
Not adopt.
50-39
2 ex
9 also

STATE OF MONTANA

HOUSE OF REPRESENTATIVES

1973 - 1974

VOTE TABULATION

3-19-73

HR 1973

SB 208

CALL

MOTION

56	AYE	39	NAY	32	ABSENT
NOY	Aageson, Dave	AYE	Hager, Tom	NOY	Marks, Robert L. (Bob)
NOY	Ainsworth, A. L. (Bud)	AYE	Haines, Tom	AYE	Mehrens, John "Sandy"
AYE	Asbjornson, J. O. "Boots"	AYE	Hall, John C.	AYE	Menahan, William "Red"
AYE	Baeth, William R. (Bill)	AYE	Halvorson, Ora J.	NOY	Mercer, Wallace W. (Wally)
AYE	Bardanouve, Francis	AYE	Harper, Hal	AYE	Murphy, John
AYE	Barrett, Fred O.	AYE	Harper, Robert J. "Bob"	AYE	Nichols, Norris
AYE	Baucus, Max S.	AYE	Healy, John E. (Jack)	NOY	Norman, Bill
NOY	Bell, John F.	AYE	Hodges, William C.	AYE	Olson, S. A.
NOY	Bennetts, Barbara K.	AYE	Holmes, Mrs. Polly	AYE	Prevost, Robert C.
NOY	Bradley, Dorothy M.	NOY	Holtz, Malcolm E.	NOY	Quilici, Joe
AYE	Brand, Joe	NOY	Hubing, Lee	AYE	Regan, Ann K. "Pat"
NOY	Brown, Robert J. (Bob)	AYE	Huennekens, Herb	AYE	Roberts, Joe R.
NOY	Burnett, James H. "Jim"	AYE	Jacobsen, Glenn	NOY	Rolfe, Tom
NOY	Campbell, William C.	AYE	Johnston, George R.	NOY	Schepens, Henry J.
NOY	Castles, Ruth B.	NOY	Jones, Tom L.	NOY	Schye, Elmer
AYE	Clemow, Tom	NOY	Kendall, Orin P.	NOY	Seifert, Carl A.
AYE	Colberg, Richard A.	NOY	Kessner, Jack E.	NOY	Selstad, Tom
AYE	Cotton, Robert S.	NOY	Kimble, Gary	NOY	Shelden, Arthur H.
AYE	Cox, Henry S. "Hank"	NOY	Kolstad, Allen C.	NOY	Smith, Carl M.
AYE	Driscoll, John B.	AYE	Kosena, Albert E. (Al)	AYE	Staigmillier, John B.
NOY	East, Vic	AYE	Kvaalen, Oscar S.	NOY	Stephens, Robert E.
AYE	Edland, Wallace B.	NOY	Laas, Walter	AYE	Stoltz, Gail
AYE	Ellerd, Robert A.	AYE	Lee, Robert E. (Bob)	AYE	Swanberg, Gorham E.
AYE	Fagg, Harrison G.	NOY	Lien, Orphey "Bud"	AYE	Tierney, John F.
AYE	Fasbender, Larry	NOY	Lockrem, Lloyd C., Jr.	AYE	Towe, Thomas E.
AYE	Fleming, James F., Jr.	AYE	Lombardi, Jerry V.	AYE	Turman, George
AYE	Flynn, James W.	NOY	Lucas, James P.	AYE	Turner, Clyde A.
AYE	Forsgren, Wallace O.	AYE	Lund, Art	NOY	Ulmer, Walter J.
AYE	Galt, Jack E.	NOY	Lundgren, Conrad F.	NOY	Walborn, John E.
AYE	Gerke, Harold E.	AYE	Lynch, John "J.D."	AYE	Warfield, Bill
AYE	Glennen, Robert E.	AYE	McKittrick, Pat	AYE	Watt, Robert D.
AYE	Greely, Michael T.	NOY	Manuel, Rex	AYE	Yardley, Dan
NOY	Gunderson, Jack	NOY	Marbut, Gary R.	AYE	Zimmer, William (Bill)
AYE	Hageman, Alvin			NOY	Mr. Speaker

SB 208

50 Aye
22 Abs

Not Adopt

3-19-73

2 ex
9 also

1.9
m.

Conference Comm.

SB 208

STATE OF MONTANA

3-20-73

79-14
1 ex
3 abs

HOUSE OF REPRESENTATIVES

1973 - 1974

VOTE TABULATION

EX-873

SD288

CALL

X

MOTION

77	AYE	18	NAY	89	ABSENT
AYE	Aageson, Dave	AYE	Hager, Tom	AYE	Marks, Robert L. (Bob)
AYE	Ainsworth, A. L. (Bud)	AYE	Haines, Tom	NAY	Mehrens, John "Sandy"
AYE	Asbjornson, J. O. "Boots"	AYE	Hall, John C.	NAY	Menahan, William "Red"
AYE	Baeth, William R. (Bill)	AYE	Halvorson, Ora J.	AYE	Mercer, Wallace W. (Wally)
NAY	Bardanouve, Francis	AYE	Harper, Hal	AYE	Murphy, John
AYE	Barrett, Fred O.	AYE	Harper, Robert J. "Bob"	AYE	Nichols, Norris
AYE	Baucus, Max S.	AYE	Healy, John E. (Jack)	AYE	Norman, Bill
AYE	Bell, John F.	AYE	Hodges, William C.	AYE	Olson, S. A.
AYE	Bennetts, Barbara K.	AYE	Holmes, Mrs. Polly	AYE	Prevost, Robert C.
AYE	Bradley, Dorothy M.	AYE	Holtz, Malcolm E.	AYE	Quilici, Joe
NAY	Brand, Joe	AYE	Hubing, Lee	AYE	Regan, Ann K. "Pat"
AYE	Brown, Robert J. (Bob)	NAY	Huennekens, Herb	NAY	Roberts, Joe R.
NBS	Burnett, James H. "Jim"	AYE	Jacobsen, Glenn	AYE	Rolfe, Tom
AYE	Campbell, William C.	AYE	Johnston, George R.	AYE	Schepens, Henry J.
AYE	Castles, Ruth B.	AYE	Jones, Tom L.	AYE	Schye, Elmer
AYE	Clemow, Tom	AYE	Kendall, Orin P.	AYE	Seifert, Carl A.
NAY	Colberg, Richard A.	AYE	Kessner, Jack E.	AYE	Selstad, Tom <i>pr</i>
AYE	Cotton, Robert S.	AYE	Kimble, Gary	AYE	Shelden, Arthur H.
AYE	Cox, Henry S. "Hank"	AYE	Kolstad, Allen C.	AYE	Smith, Carl M.
AYE	Driscoll, John B. <i>pr</i>	NAY	Kosena, Albert E. (Al)	AYE	Staigmillier, John B.
AYE	East, Vic	AYE	Kvaalen, Oscar S.	AYE	Stephens, Robert E.
AYE	Edland, Wallace B.	AYE	Laas, Walter	AYE	Stoltz, Gail
NBS	Ellerd, Robert A.	AYE	Lee, Robert E. (Bob)	AYE	Swanberg, Gorham E.
NAY	Fagg, Harrison G.	AYE	Lien, Orpheus "Bud"	AYE	Tierney, John F.
AYE	Fasbender, Larry <i>pr</i>	NAY	Lockrem, Lloyd C., Jr.	AYE	Towe, Thomas E.
AYE	Fleming, James F., Jr. <i>pr</i>	AYE	Lombardi, Jerry V.	NAY	Turman, George
AYE	Flynn, James W.	AYE	Lucas, James P.	AYE	Turner, Clyde A.
AYE	Forsgren, Wallace O.	AYE	Lund, Art	AYE	Ulmer, Walter J.
AYE	Galt, Jack E.	AYE	Lundgren, Conrad F.	AYE	Walborn, John E.
AYE	Gerke, Harold E.	AYE	Lynch, John "J.D."	AYE	Warfield, Bill
AYE	Glennen, Robert E.	NAY	McKittrick, Pat	NAY	Watt, Robert D.
NAY	Greely, Michael T.	AYE	Manuel, Rex	AYE	Yardley, Dan
AYE	Gunderson, Jack	AYE	Marbut, Gary R.	AYE	Zimmer, William (Bill)
NAY	Hageman, Alvin			AYE	Mr. Speaker

SB 208

Reconsider
Conference Comm.

3-20-73

77 Aye
12 Nay

1 ex
3 abs

108

CHAPTER NO. 500

An Act Requiring Local Governing Bodies to Adopt Subdivision Regulations and in Default Thereof Providing for the Promulgation of Departmental Minimum Requirements; Providing for the Submission of Environmental Assessments; Providing for the Administrative Establishment of Procedures and Requirements for Preparation of Subdivision Plats; Setting Forth Requirements for Surveying and Platting Divisions of Real Property and for Recording Surveys and Plats; Providing for Surveying, Platting, and Subdividing Generally; and Repealing Sections 11-601 through 11-616, 11-3843 through 11-3848 and 11-3851, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act may be cited as the "Montana Subdivision and Platting Act."

Section 2. It is the purpose of this act to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to encourage development in harmony with the natural environment; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to plat or certificate of survey.

Section 3. As used in this act, unless the context or subject matter clearly requires otherwise, the following words or phrases shall have the following meanings:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to himself no rights which are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(3) "Examining land surveyor" means a county surveyor or a registered land surveyor duly appointed to review surveys and plats submitted for filing.

(4) "Governing body" means a board of county commissioners or the governing authority of any city or town organized pursuant to law.

(5) "Planned unit development" means a land development

project consisting of residential clusters, industrial parks, shopping centers, or office building parks, or any combination thereof which comprises a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership.

(6) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, and alleys, and other divisions and dedications.

(7) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnish a basis for review by a governing body; and the same shall be accompanied by any proposed covenants to run with the platted land and other elements of the proposed subdivision required to furnish a basis of review by the governing body.

(8) "Final plat" means the final drawing of the subdivision and dedication prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this act and in regulations adopted pursuant thereto.

(9) "Registered land surveyor" means a person licensed in conformance with the Montana Professional Engineers' Registration Act (sections 66-2301 through 66-2347) to practice surveying in the state of Montana.

(10) "Registered professional engineer" means a person licensed in conformance with the Montana Professional Engineers' Act (sections 66-2301 through 66-2347) to practice engineering in the state of Montana.

(11) "Subdivider" means any person who causes land to be subdivided or who proposes a subdivision of land.

(12) "Subdivision" means the division of land, or land so divided, into two (2) or more parcels, whether contiguous or not, any of which is ten (10) acres or less, exclusive of public roadways, in size, without regard to the method of description thereof, in order that the title or possession of the parcels or any interest therein may be sold, rented, leased, or otherwise conveyed either immediately or in the future, and shall include any resubdivision of land; and shall further include any condominium or areas providing multiple space for camping trailers, house trailers or mobile homes; provided further that a division of land is a subdivision when the division creates a second or any subsequent parcel for the purpose of sale, rent, lease, or other conveyance from a tract of land held in single or undivided ownership on July 1, 1973, where any of the parcels segregated from the original

tract is ten (10) acres or less, exclusive of public roadways, in size, without regard to the method of description thereof. The plat of a subdivision so created shall show all of the parcels segregated from the original tract whether contiguous or not.

"Subdivision" shall include any condominium or areas providing multiple space for camping trailers, house trailers, or mobile homes, regardless of the size of the parcel of land upon which the same is situated.

Section 4. (1) Except as provided herein, all division of real property made after June 30, 1973, into lots, tracts, or parcels any of which is ten (10) acres or less in size or the boundaries or area of which cannot be determined without a survey or trigonometric calculation, must be surveyed by or under the supervision of a registered surveyor; and a certificate of survey thereof must be completed by the surveyor and filed by him in the office of the county clerk and recorder of the county in which the real property lies.

(2) Every subdivision of land after June 30, 1973, shall be surveyed and platted in conformance with this act by or under the supervision of a registered land surveyor. Subdivision plats shall be prepared and filed in accordance with this act and regulations adopted pursuant thereto. Each subdivision plat must be accompanied by as complete a survey of the section or sections in which the subdivision is located as may be necessary to properly orient the subdivision within such section or sections. All division of sections into aliquot parts and retracement of lines must conform to United States bureau of land management instructions, and all public land survey corners shall be filed in accordance with the Corner Recordation Act of Montana (sections 67-2001 through 67-2019). Engineering plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body shall be prepared and filed by a registered engineer or a registered land surveyor as their respective licensing laws allow in accordance with this act and regulations adopted pursuant thereto.

(3) Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with section 32-2413, and are exempted from the surveying and platting requirements of this act; provided, however, that if such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording.

(4) Unless the method of disposition is adopted for the pur-

pose of evading this act, the requirements of this act shall not apply to any division of land;

(a) which is created by order of any court of record in this state or by operation of law, or which, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain (sections 93-9901 through 93-9926);

(b) which is created by a lien, mortgage, or trust indenture;

(c) which creates an interest in oil, gas, minerals, or water which is now or hereafter severed from the surface ownership of real property;

(d) which creates cemetery lots;

(e) which is made for the purpose of a gift or sale to any member of the landowner's immediate family;

(f) which is leased or rented for farming and agricultural purposes.

(5) The department of intergovernmental relations shall, in conformance with the Montana Administrative Procedure Act (sections 82-4201 through 82-4225), prescribe uniform standards for monumentation and for the form, accuracy, and descriptive content of records of survey.

(6) It shall be the responsibility of the governing body to require the replacement of all monuments removed in the course of construction.

Section 5. (1) The governing body of every county, city, and town shall, before July 1, 1974, adopt and provide for the enforcement and administration of subdivision regulations reasonably providing for the orderly development of their jurisdictional areas; for the coordination of roads within subdivided land with other roads, both existing and planned; for the dedication of land for roadways and for public utility easements; for the improvement of roads; for the provision of adequate open spaces for travel, light, air and recreation; for the provision of adequate transportation, water, drainage, and sanitary facilities; for the avoidance or minimization of congestion; and for the avoidance of subdivision which would involve unnecessary environmental degradation; and the avoidance of danger or injury to health, safety, or welfare by reason of natural hazard or the lack of water, drainage, access, transportation or other public services or would necessitate an excessive expenditure of public funds for the supply of such services.

Prior to adopting or amending subdivision regulations pursuant to this act, the governing body shall submit the proposed regulations or amendments to the division of planning and economic development of the department of intergovernmental relations for review.

Before the governing body adopts subdivision regulations pursuant to this section it shall hold a public hearing thereon and shall give public notice of its intent to adopt such regulations and of the public hearing by publication of notice of the time and place of the hearing in each newspaper published in the county not less than fifteen (15) nor more than thirty (30) days prior to the date of the hearing.

(2) Not later than December 31, 1973, the department of intergovernmental relations, through its division of planning and economic development, shall, in conformance with the Montana Administrative Procedure Act (sections 82-4201 through 82-4225), prescribe model subdivision rules and reasonable minimum requirements designed to promote the public health, safety and general welfare to be contained in, and those subject areas which must be addressed by, subdivision regulations adopted pursuant to this act. The subdivision rules and minimum requirements shall include detailed criteria for the content of the environmental assessment required by this act. The governing body shall provide for the review of preliminary plats by those agencies of state and local government and affected public utilities having a substantial interest in proposed subdivision; provided, however, that such agency or utility review shall not delay the governing body's action on the plat beyond the time limit specified herein, and the failure of any agency to complete a review of a plat shall not be a basis for rejection of the plat by the governing body.

(3) In prescribing the minimum contents of the subdivision regulations, the department of intergovernmental relations, through its division of planning and economic development, shall require the submission by the subdivider to the governing body of an environmental assessment.

(4) The environmental assessment shall accompany the preliminary plat and shall include:

(a) a description of every body or stream of surface water as may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation and wildlife use within the area of the proposed subdivision;

(b) maps and tables showing soil types in the several parts

of the proposed subdivision, and their suitability for any proposed developments in those several parts;

(c) a community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing, roads and maintenance, water, sewage, and solid waste facilities, and fire and police protection;

(d) such additional relevant and reasonable information as may be required by the department through its division of planning and economic development.

(5) Local subdivision regulations shall include procedures for the summary review and approval of subdivision plats containing five (5) or fewer parcels all of which front on an existing public road where no land in the subdivision will be dedicated to public use and which have been approved by the department of health and environmental sciences where such approval is required by sections 69-5001 through 69-5005; provided that reasonable local regulations may contain additional requirements for summary approval.

(6) Subdivision regulations may authorize the governing body to grant variances from the regulations when strict compliance will result in undue hardship and when it is not essential to the public welfare. Any variance granted pursuant to this subsection must be based on specific variance criteria contained in the subdivision regulations.

(7) Local regulations may provide that in lieu of the completion of the construction of any public improvements prior to the approval of a final plat, the governing body shall require a bond or other reasonable security, in an amount and with surety and conditions satisfactory to it, providing for and securing the construction and installation of such improvements within a period specified by the governing body and expressed in the bonds or other security.

(8) In the event that any governing body has not adopted subdivision regulations by July 1, 1974, which meet or exceed the prescribed minimum requirements, the department shall, through its division of planning and economic development, no later than January 1, 1975, promulgate reasonable regulations to be enforced by the governing body. If at any time thereafter the governing body adopts its own subdivision regulations, these shall supersede those promulgated by the department but shall be no less stringent.

Section 6. (1) A subdivision plat in which any lot is five (5) acres or less in size shall show that one-ninth (1/9) of the

platted area, exclusive of all other dedications, is forever dedicated to the public for parks and playgrounds.

A subdivision plat in which all lots shown are greater than five (5) acres in size shall show that one-twelfth (1/12) of the platted area, exclusive of all other dedications, is forever dedicated to the public for parks and playgrounds. There shall be no requirement for dedication of parks and playgrounds when the subdivision plat show that all lots or parcels are greater than ten (10) acres in size. The governing body, in consultation with the planning board having jurisdiction, may determine suitable locations for such parks and playgrounds.

(2) Where, because of size, topography, shape, location, or other circumstances, the dedication of land for parks and playgrounds is undesirable, the governing body may, for good cause shown, make an order to be endorsed and certified on the plat accepting a cash donation in lieu of the dedication of land and equal to the fair market value of the amount of land that would have been dedicated. For the purpose of this section, the fair market value is the value of the unsubdivided, unimproved land. Such cash donation shall be paid into the park fund to be used for the purchase of additional lands or for the initial development of parks and playgrounds.

(3) If the proposed plat provides for a planned unit development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside therein, the governing body may issue an order waiving land dedication and cash donation requirements.

(4) If a tract of land is being developed under single ownership as a part of an overall plan, and part of the tract has been subdivided and sufficient park lands have been dedicated to the public from the area that has been subdivided to meet the requirements of this section for the entire tract being developed, the governing body shall issue an order waiving the land dedication and cash donation requirements for the subsequently platted area.

(5) The local governing body may waive dedication and cash donation requirements where all of the parcels in a subdivision are five (5) acres or more in size and where the subdivider enters a covenant to run with the land and revocable only by consent of the governing body that the parcels in the subdivision will never be subdivided into parcels of less than five (5) acres and that all parcels in the subdivision will be used for single family dwellings.

Section 7. Where a subdivision platted under this act contains land to be dedicated to public use, the subdivider shall submit with the preliminary plat either:

(1) a certificate of a licensed title abstractor showing the names of the owners of record of the land to be dedicated and the names of lien holders or claimants of record against the land and the written consent to the dedication by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land; or

(2) title insurance guaranteeing the public's interest in the dedicated land in a reasonable amount to be determined by the governing body.

Section 8. (1) Except where a plat is eligible for summary approval the subdivider shall present to the governing body, or the agent or agency designated thereby, the preliminary plat of the proposed subdivision for local review. When the proposed subdivision lies within the boundaries of an incorporated city or town, the preliminary plat shall be submitted to and approved by the city or town governing body. When the proposed subdivision is situated entirely in an unincorporated area the preliminary plat shall be submitted to and approved by the governing body of the county; however, if the proposed subdivision lies within one (1) mile of a third class city or town or within two (2) miles of a second class city or within three (3) miles of a first class city the county governing body shall submit the preliminary plat to the city or town governing body for review and comment. If the proposed subdivision lies partly within an incorporated city or town, the proposed plat thereof must be submitted to and approved by both the city or town and the county governing bodies. This section does not limit the authority of certain municipalities to regulate subdivisions beyond their corporate limits pursuant to section 11-3305.

(2) The governing body shall approve, conditionally approve, or reject the preliminary plat within sixty (60) days of its presentation. The preliminary plat shall show all pertinent features of the proposed subdivision and all proposed improvements. The governing body or its designated agent or agency shall review the preliminary plat to determine whether it conforms to the local master plan if one has been adopted pursuant to sections 11-3801 through 11-3856 to the provisions of this act, and to rules and regulations prescribed or adopted pursuant to this act.

(3) The governing body or its authorized agent or agency shall hold a public hearing on the preliminary plat and shall consider all relevant evidence relating to the public health, safety and welfare, including the environmental assessment, to determine whether the plat should be approved, conditionally approved, or disapproved by the governing body. Notice of such hearing shall be given by publication in a newspaper published in the county

not less than fifteen (15) days prior to the date of the hearing. When a hearing is held by an agent or agency designated by the governing body, the agent or agency shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or disapproval of the plat. This recommendation must be submitted to the governing body in writing not later than ten (10) days after the public hearing. If the governing body rejects or conditionally approves the preliminary plat, it shall forward one (1) copy of the plat to the subdivider accompanied by a letter over the appropriate signature stating the reason for rejection or enumerating the conditions which must be met to assure approval of the final plat.

(4) Upon approving or conditionally approving a preliminary plat, the governing body shall affix a dated and signed statement of approval to the preliminary plat. The governing body shall forward one (1) copy of the approval statement to the subdivider. This approval shall be in force for not more than one (1) calendar year; at the end of this period the governing body may, at the request of the subdivider, extend its approval for no more than one (1) calendar year.

Section 9. (1) All final subdivision plats shall be reviewed for errors and omissions in calculation or drafting by an examining land surveyor. He shall ascertain that all features, such as streets, drainage, and all other improvements and facilities to be operated or maintained with public funds, are essentially the same as those shown on the approved preliminary plat; that the permanent control monuments meet requirements prescribed pursuant to this act; that all exterior boundaries and corners of the tract are shown in sufficient detail so as to leave no doubt as to how they were established; and that all monuments and references marking exterior corners conform to standards of size and position promulgated pursuant to this act. When the survey data shown on the plat meet the conditions set forth by or pursuant to this act, the examining land surveyor shall so certify in a printed or stamped certificate on the plat; such certificate shall be signed by him.

No land surveyor shall act as an examining land surveyor in regard to a plat in which he has a financial or personal interest other than as draftsman of the plat.

(2) The governing body shall examine every final subdivision plat and shall approve it when, and only when, it conforms to the conditions of approval set forth on the preliminary plat and to the terms of this act and regulations adopted pursuant thereto. The clerk and recorder of the county shall refuse to

accept any plat for record that fails to have such approval in proper form.

(3) Every final subdivision plat must be filed for record with the county clerk and recorder before any interest in the subdivided land can be sold, rented, leased, or transferred in any manner or offered for sale, lease, or transfer. If illegal transfers or offers of any manner are made, the county attorney shall commence action to enjoin further sales, transfers, or offers of sale or transfer and compel compliance with all provisions of this act. The cost of such action shall be imposed against the person transferring or offering to transfer the property.

Section 10. The governing body may establish reasonable fees to be paid by the subdivider to defray the expense of reviewing subdivision plats.

Section 11. All covenants shall be considered to run with the land, whether marked or noted on the subdivision plat or contained in a separate instrument recorded with the plat.

Section 12. (1) Any plat prepared and recorded as herein provided may be vacated either in whole or in part as provided by sections 11-2801 and 11-2803, and upon such vacation the title to the streets and alleys of such vacated portions to the center thereof shall revert to the owners of the properties within the platted area adjacent to such vacated portions; provided however, that when any pole line, pipe line, or any other public or private facility that is located in a vacated street or alley at the time of the reversion of the title thereto, the owner of said public or private utility facility shall have an easement over the vacated land to continue the operation and maintenance of the public utility facility.

(2) All plats and other title records which were recorded prior to the effective date of this act in accordance with the law in force at the time of recording and which have not been subsequently vacated are hereby validated, notwithstanding irregularities, and have the same legal status as plats recorded under the provisions of this act.

(3) The recording of any plat made in compliance with the provisions of this act shall serve to establish the identity of all lands shown on and being a part of such plat. Where lands are conveyed by reference to a plat, the plat itself or any copy of the plat properly certified by the county clerk and recorder as being a true copy thereof, shall be regarded as incorporated into the instrument of conveyance and shall be received in evidence in all courts of this state.

Section 13. Every donation or grant to the public, or to any person, society, or corporation, marked or noted on a plat is to be considered a grant to the donee.

Section 14. (1) Within one hundred eighty (180) days of the completion of a survey the registered land surveyor responsible for the survey, whether he is privately or publicly employed, shall prepare and file for record a certificate of survey in the county in which the survey was made if the survey:

(a) provides material evidence not appearing on any map filed with the county clerk and recorder or contained in the records of the United States bureau of land management;

(b) reveals a material discrepancy in such map;

(c) discloses evidence to suggest alternate locations of lines or points;

(d) establishes one or more lines not shown on a recorded map the positions of which are not ascertainable from an inspection of such map without trigonometric calculations.

(2) A certificate of survey will not be required for any survey which is made by the United States bureau of land management or which is preliminary or which will become part of a subdivision plat being prepared for recording under the provisions of this act.

(3) Certificates of survey shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record and shall conform to monumentation and surveying requirements promulgated under this act.

Section 15. The county clerk and recorder shall maintain an index of all recorded subdivision plats and certificates of survey. This index shall list plats and certificates of survey by the quarter section, section, township, and range in which the platted or surveyed land lies and shall list the recording or filing numbers of all plats depicting lands lying within each quarter section. Each quarter section list shall be definitive to the exclusion of all other quarter sections. The index shall also list the names of all subdivision plats in alphabetical order and the place where filed.

Section 16. When a recorded plat does not definitely show the location or size of lots or blocks, or the location or width of any street or alley, the governing body may at its own expense cause a new and correct survey and plat to be made and recorded in the office of the county clerk. The corrected plat must, to the extent possible, follow the plan of the original survey and plat. The surveyor making the resurvey shall endorse the corrected plat

referring to the original plat and noting the defect existing therein and the corrections made.

Section 17. Every registered land surveyor may administer and certify oaths:

(1) when it becomes necessary to take testimony for the identification of old corners or reestablishment of lost or obliterated corners;

(2) when a corner or monument is found in a deteriorating condition and it is desirable that evidence concerning it be perpetuated;

(3) when the importance of the survey makes it desirable to administer an oath to his assistants for the faithful performance of their duty.

A record of oaths shall be preserved as part of the field notes of the survey, and noted on the certificate of survey filed under this section.

Section 18. Any person who violates any provision of this act or any local regulations adopted pursuant thereto shall be guilty of a misdemeanor and punishable by a fine of not less than one hundred dollars (\$100) or more than five hundred dollars (\$500) or by imprisonment in a county jail for not more than three (3) months, or by both fine and imprisonment. Each sale, lease or transfer, or offer for sale, lease, or transfer of each separate parcel of land in violation of any provision of this act or any local regulation adopted pursuant thereto shall be deemed a separate and distinct offense.

Section 19. If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Section 20. Sections 11-601 through 11-616, 11-3843 through 11-3848, and 11-3851, R.C.M. 1947, are repealed.

Approved: April 2, 1973.

CHAPTER NO. 501

An Act Providing for the Issuance of Bonds By Airport Authorities; Amending Sections 1-804, 1-912 and 1-916, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana: